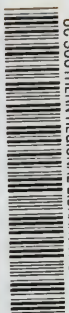


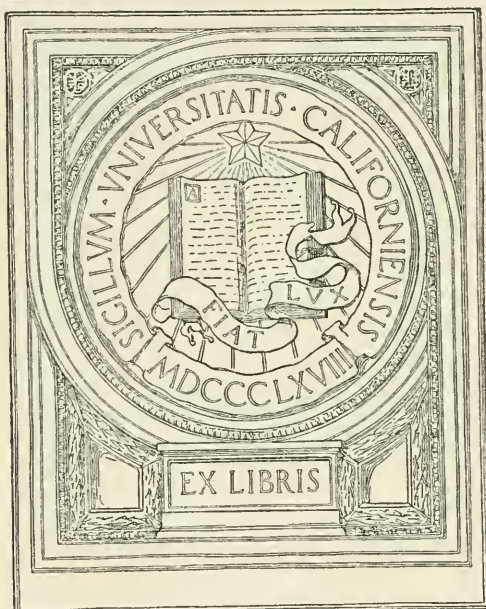
A  
A  
0  
0  
0  
8  
1  
3  
7  
9  
3  
7



UC SOUTHERN REGIONAL LIBRARY FACILITY

UNIVERSITY OF CALIFORNIA  
LIBRARY  
SOUTHERN REGIONAL LIBRARY FACILITY  
UNIVERSITY OF CALIFORNIA  
LIBRARY

UNIVERSITY OF CALIFORNIA  
AT LOS ANGELES



GIFT OF  
L.A. County Law Library



OCT -2 1920

OCT -2 1920

WITHDRAWN  
LAW LIBRARY  
LOS ANGELES COUNTY









JOURNAL  
OF THE  
CONSTITUTIONAL CONVENTION

OF THE

STATE OF NEW HAMPSHIRE,

DECEMBER, 1876.

---

CONCORD:  
EDWARD A. JENKS, STATE PRINTER.  
1877.





JK

2925

1876

A23

12-4-40  
C

# JOURNAL

OF THE

## CONSTITUTIONAL CONVENTION.

CONCORD, December 6, 1876.

The delegates elected to the Constitutional Convention assembled in the hall of the House of Representatives on Wednesday, December 6, 1876, at eleven o'clock in the forenoon, and were called to order by W. H. Y. Hackett of Portsmouth.

On motion of George N. Eastman of Farmington, W. H. Y. Hackett of Portsmouth was chosen temporary chairman.

On motion of J. H. Gallinger of Concord, C. C. Danforth of Concord was chosen temporary secretary.

On motion of Joseph Wentworth of Concord,

*Resolved*, That a committee, consisting of two delegates from each county, be appointed by the chair to inquire who are elected delegates to this convention.

The following named gentlemen were appointed as such committee :

### MERRIMACK COUNTY.

Joseph Wentworth of Concord,  
John M. Shirley of Andover.

### ROCKINGHAM COUNTY.

John J. Bell of Exeter,  
Henry F. Wendell of Portsmouth.

*Gift of L. A. County Law Lib.*

346215

## STRAFFORD COUNTY.

George N. Eastman of Farmington,  
Eben E. Berry of New Durham.

## BELKNAP COUNTY.

Thomas J. Whipple of Laconia,  
Benjamin J. Cole of Gilford.

## CARROLL COUNTY.

W. H. H. Mason of Moultonborough,  
Samuel D. Quarles of Ossipee.

## HILLSBOROUGH COUNTY.

Charles H. Bartlett of Manchester,  
Dana Sargent of Hudson.

## CHESHIRE COUNTY.

Francis A. Faulkner of Keene,  
Willard W. Pierce of Westmoreland.

## SULLIVAN COUNTY.

William C. Sturoc of Sunapee,  
Chester Pike of Cornish.

## GRAFTON COUNTY.

Albert M. Shaw of Lebanon,  
George F. Putnam of Warren.

## COOS COUNTY.

Adams Twitchell of Milan,  
Hazen Bedel of Colebrook.

Jacob Benton of Lancaster introduced the following resolution :

*Resolved*, That a committee of two from each county be appointed to report a list of officers for the permanent organization of the convention.

E. B. S. Sanborn of Franklin remarked that, from various suggestions that had been made to him, he found that a great many delegates would rather cast their ballots direct, than to vote upon the report of a committee. He hoped the resolution would not be adopted.



S. B. Page of Haverhill hoped that members would be allowed to vote for a presiding officer directly, uncompromised by any feeling that the report of a committee would create.

Mr. Benton of Lancaster said he had introduced the resolution simply to bring the subject directly to the attention of the delegates. He had supposed that every man was free to act according to his independent conviction, and would vote for the candidate of his choice.

On motion of Mr. Wentworth of Concord, the resolution was laid on the table.

On motion of Samuel M. Wheeler of Dover,

*Resolved*, That when this convention adjourns, it adjourn to meet this afternoon at half past two o'clock.

On motion of Mr. Wheeler of Dover the convention adjourned.

## AFTERNOON.

The convention met according to adjournment.

Mr. Wentworth, for the committee on credentials, reported that *prima facie* evidence had been presented to them of the election of the following named persons as delegates to this convention, and the report was accepted :

### ROCKINGHAM COUNTY.

Atkinson .....	Greenleaf Clarke.
Auburn.....	Charles C. Grant.
Brentwood.....	William Morrill.
Chester.....	William Greenough.
Candia.....	Plumer W. Sanborn.
	Levi Bean.
Danville .....	David Griffin.
Derry.....	William W. Poor.
	Rufus Tilton.
Deerfield.....	Samuel C. Danforth.
	Robert C. Bickford.
East Kingston.....	John B. Morrill.
Epping .....	Thomas Folsom.
	David Edgerly.

Exeter.....	John J. Bell. William W. Stickney. William B. Morrill. Gilman Marston.
Fremont.....	George L. Sanborn.
Greenland.....	John S. H. Frink.
Hampstead.....	Albert L. Eastman.
Hampton.....	Joseph Dow.
Hampton Falls.....	Nehemiah P. Cram.
Kensington.....	Jonathan E. Brown.
Kingston.....	John B. Hanson.
Londonderry.....	Alexander M. Corning. John Dickey.
Newmarket.....	John J. Robinson. Charles H. Smith.
Newcastle.....	William A. Maloon.
Newington.....	Nehemiah Pickering.
Newton.....	Edward P. Wallace.
North Hampton.....	David P. Moulton.
Nottingham.....	Charles H. Batchelder.
Northwood.....	John B. Clarke.
Plaistow.....	Nathaniel H. Clark.
Portsmouth—Ward 1.....	Ichabod Goodwin. James W. Emery. William H. Y. Hackett.
Ward 2.....	Titus Salter Tredick. William H. Hackett. Alfred F. Howard. Joseph P. Morse.
Ward 3.....	Israel Marden.
Ward 4.....	Daniel Marcy. Henry F. Wendell.
Raymond.....	John F. Brown.
Rye.....	David Jenness.
Salem.....	Joseph Webster. Levi Clough.
Sandown.....	Ebenezer Hoyt, 2d.
South Hampton.....	Joseph J. J. Sawyer.
South Newmarket.....	Amos Paul.
Stratham.....	Charles N. Healey.
Windham.....	Horace Berry.

STRAFFORD COUNTY.

Dover—Ward 1.....	John H. Loughton. Asa S. Baker.
Ward 2.....	William S. Stevens. Joseph D. Guppy. John B. Bruce.
Ward 3.....	Samuel M. Wheeler. Zimri S. Wallingford. Charles H. Horton.
Ward 4.....	George B. Spaulding. John E. Bickford. John Clements.
Durham.....	Joshua B. Smith.
Farmington.....	George N. Eastman. Jeremy O. Nute. John I. Huckins.
Lee.....	Seth W. Woodman.
Madbury.....	Charles R. Meserve.
Middleton.....	Cyrus B. Perkins.
Milton.....	Joseph Plummer. Elbridge W. Fox.
New Durham.....	Eben E. Berry.
Rochester.....	Nicholas V. Whitehouse. Ebenezer G. Wallace. James H. Edgerly. Franklin McDuffee. Charles E. Jenkins.
Rollinsford.....	John Q. A. Wentworth.
Somersworth.....	George Wm. Burleigh. Otis B. Morse. Thomas G. Jameson. Micajah C. Burleigh. True Wm. Woodman.
Strafford.....	Aaron W. Foss. Jacob B. Smith.

BELKNAP COUNTY.

Alton.....	Amos L. Rollins. Lafayette Woodman.
Barnstead.....	Samuel A. Hodgdon. Charles S. George.
Center Harbor.....	Alonzo Perkins.
Gilford.....	Orastus H. Key. Benjamin J. Cole. Thomas Weeks.



Gilmanton.....	Charles F. Sargent. Henry E. Marsh.
Laconia.....	Thomas J. Whipple. Nelson Richardson. Jonathan G. Dow.
Meredith.....	Bradbury C. Tuttle. Thaddeus S. Moses.
New Hampton.....	George H. Dickerman.
Sanbornton.....	Person C. Shaw.
Tilton.....	Bradbury T. Brown.

## CARROLL COUNTY.

Albany.....	Hiram Mason.
Bartlett.....	George W. M. Pitman. Frank George.
Brookfield.....	Dudley C. Colman.
Chatham.....	Osborn Anderson.
Conway.....	Hiram C. Abbott. Jeremiah A. Farring
Eaton.....	Benjamin F. Wakefield.
Effingham.....	John V. Granville.
Freedom.....	Stephen Danforth.
Hart's Location.....	John O. Cobb.
Madison.....	James J. Merrow.
Moultonborough.....	William H. H. Mason.
Ossipee.....	Sanborn B. Carter. Samuel D. Quarles.
Sandwich.....	John H. Plumer. Paul Wentworth.
Tamworth.....	Nathaniel Hubbard.
Tuftonborough.....	Marquis DeL. McDuffee.
Wakefield.....	John W. Sanborn.
Wolfeborough.....	Jethro R. Furber. Thomas L. Whitton.

## MERRIMACK COUNTY.

Allenstown.....	John Perkins.
Andover.....	John M. Shirley. Henry M. Bosworth.
Boscawen.....	Isaac K. Gage.
Bow.....	Andrew Gault.
Bradford.....	John W. Morse.
Canterbury.....	James O. Lyford.
Chichester.....	Edward Langmaid.

Concord—Ward 1.....	John S. Brown. Daniel W. Fox.
Ward 2.....	John L. Tallant.
Ward 3.....	Abijah Hollis.
Ward 4.....	Ai B. Thompson. Jacob H. Gallinger. Benjamin E. Badger.
Ward 5.....	Jonathan E. Sargent. John Kimball. William E. Chandler.
Ward 6.....	Joseph Wentworth. Benjamin A. Kimball. Lewis Downing.
Ward 7.....	William W. Critchett. Isaac W. Hammond.
Epsom.....	Paran Philbrick.
Franklin.....	Isaac N. Blodgett. David Gilchrist. Edward B. S. Sanborn.
Henniker.....	Oliver H. Noyes.
Hill.....	Isaac T. Parker.
Hooksett.....	William F. Head.
Hopkinton.....	John F. Jones. John M. Harvey.
Loudon.....	Jeremiah Blake. Harris E. Morse.
Newbury.....	Sprague A. Morse.
New London.....	Daniel E. Colby.
Northfield.....	Warren H. Smith.
Pembroke.....	Aaron Whittemore. Trueworthy L. Fowler.
Pittsfield.....	Charles T. B. Knowlton. Henry L. Robinson.
Salisbury.....	Nathaniel Bean.
Warner.....	Nehemiah G. Ordway. William H. Walker.
Webster.....	Edward Buxton.
Wilmot.....	William W. Flanders.

HILLSBOROUGH COUNTY.

Amherst.....	J. G. Davis.
Antrim.....	Nathan C. Jameson.
Bedford.....	Charles H. Kendall.
Bennington.....	Henry J. Burt.

Brookline.....	Joseph A. Hall.
Deering.....	Freeman Dow.
Francestown.....	Garvin S. Sleeper.
Goffstown.....	Alfred Poor.
	Jabez B. Pattee.
Greenfield.....	David Starrett.
Greenville.....	James L. Chamberlain.
Hancock.....	John H. Felch.
Hillsborough.....	Cornelius Cooledge.
	Brooks K. Webber.
Hollis.....	John Woods.
Hudson.....	Dana Sargent.
Litchfield.....	Samuel Chase.
Manchester—Ward 1.....	George C. Gilmore.
	John W. Severance.
	Albert Maxfield.
Ward 2.....	Frederick Smyth.
	Arthur M. Eastman.
Ward 3.....	Daniel Clark.
	James F. Briggs.
	Charles H. Bartlett.
	Hiram K. Slayton.
	Charles E. Balch.
Ward 4.....	Nathan Parker.
	Bradbury P. Cilley.
	Waterman Smith.
	Thomas P. Cheney.
Ward 5.....	Samuel P. Jackson.
	Patrick A. Devine.
	James Sullivan.
	Thomas Connolly.
	Charles A. O'Connor.
	William F. Byrnes.
Ward 6.....	John P. Moore.
	George Holbrook.
	Jonathan Y. McQuesten.
Ward 7.....	Marshall P. Hall.
	Joseph W. Bean.
Ward 8.....	Allen N. Clapp.
	Charles K. Walker.
Merrimack.....	Ward Parker.
Milford.....	Isaac P. Abbott.
	Charles F. Fiske.
	Joseph Crosby.



Mont Vernon.....	Charles G. Smith.
Nashua—Ward 1.....	George A. Ramsdell.
Ward 2.....	John G. Kimball.
Ward 3.....	Abi A. Saunders.
Ward 4.....	Edward Spalding.
Ward 5.....	Ross C. Duffy.
Ward 6.....	John Tilton.
	Cornelius V. Dearborn.
	Henry Parkinson.
Ward 7.....	J. P. S. Otterson.
	Horace W. Gilman.
Ward 8.....	Jonathan Smothers.
New Boston.....	Henry Hutchinson.
New Ipswich.....	Henry O. Preston.
Pelham.....	F. M. Woodbury.
Peterborough.....	Albert S. Scott.
	Ezra M. Smith.
Sharon.....	Derostus P. Emory.
Temple.....	William P. Bacon.
Weare.....	Alonzo H. Wood.
	Oliver D. Sawyer.
Wilton.....	George S. Neville.
	William A. Jones.
Windsor.....	Francis G. Dresser.

CHESHIRE COUNTY.

Alstead.....	Cyrus K. Vilas.
Chesterfield.....	Jay Jackson.
Dublin.....	Henry C. Piper.
Fitzwilliam.....	John M. Parker.
Gilsum.....	Daniel W. Bill.
Harrisville.....	Samuel D. Bemis.
Hinsdale.....	Charles J. Amidon.
	Henry M. Jones.
Jaffrey.....	Benjamin Pierce.
Keene—Ward 1.....	Edward Gustine.
	Silas Hardy.
Ward 2.....	Thomas E. Hatch.
Ward 3.....	Elbridge Clarke.
	Leonard Wellington.
Ward 4.....	Francis A. Faulkner.
Ward 5.....	Henry S. Martin.
Marlow.....	John Q. Jones.

Marlborough.....	Levi A. Fuller.
Nelson.....	Josiah H. Melville.
Rindge.....	Zebulon Converse.
Richmond.....	Nathan F. Newell.
Roxbury.....	Brigham Nims.
Stoddard.....	Ephraim Stevens.
Sullivan.....	Asa E. Wilson.
Surry.....	George K. Harvey.
Swanzy.....	Benjamin F. Lombard.
	Stephen Faulkner.
Troy.....	David W. Farrar.
Walpole.....	David Buffum.
	Charles Fisher.
Westmoreland.....	Willard W. Pierce.
Winchester.....	Ellery Albee.
	Sidney M. Morse.

## SULLIVAN COUNTY.

Acworth.....	Charles K. Brooks.
Charlestown.....	Benjamin Labaree.
	Abel Hunt.
Claremont.....	Nathaniel Tolles.
	John S. Walker.
	George H. Stowell.
	Albert F. Winn.
	Stephen F. Rossiter.
Cornish.....	Chester Pike.
Croydon.....	Pliny Hall.
Goshen.....	Hiram Sholes.
Grantham.....	Thomas B. Alexander.
Langdon.....	William P. Wilson.
Lempster.....	Cyrus H. Hodgman.
Newport.....	Levi W. Barton.
	Dexter Richards.
	John B. Cooper.
Plainfield.....	Fred Moulton.
Springfield.....	Daniel N. Adams.
Sunapee.....	William C. Sturoc.
Unity.....	Joseph M. Perkins.
Washington.....	George W. Carr.

## GRAFTON COUNTY.

Alexandria.....	Orrin S. Gale.
Ashland.....	Barnett Hughes.

Bath.....	Solomon S. Carbee.
Benton.....	George W. Mann.
Bethlehem.....	John G. Sinclair.
	Willis Wilder.
Bridgewater.....	Nathaniel Batchelder.
Bristol.....	William A. Beckford.
	Marshall W. White.
Canaan.....	Charles Day.
	George W. Murray.
Dorchester.....	Abner Blodgett.
Enfield.....	Everett B. Huse.
	James W. Johnson.
Franconia.....	David H. Applebee.
Grafton.....	Alanson Walker.
Groton.....	Andrew Remick.
Hanover.....	Elijah B. Hurlbutt.
	Henry E. Parker.
Haverhill.....	Samuel B. Page.
	Joseph Powers.
Hebron.....	William C. Ross.
Holderness.....	Oliver H. P. Craig.
Landaff.....	John C. Atwood.
Lebanon.....	Albert M. Shaw.
	John L. Spring.
	Francis A. Cushman.
	Nathan B. Stearns.
Lisbon.....	Joseph Parker.
	Michael M. Stevens.
Littleton.....	Harry Bingham.
	Cyrus Eastman.
	John Farr.
Lyme.....	George F. Sawtell.
Lyman.....	Herbert B. Moulton.
Monroe.....	Larkin Hastings.
Orange.....	Ora H. Heath.
Orford.....	Charles W. Pierce.
Piermont.....	Aaron P. Gould.
Plymouth.....	Joseph Burrows.
	Nathan H. Weeks.
Thornton.....	Albert Lyford.
Warren.....	George F. Putnam.
Waterville.....	Merrill Greeley.
Wentworth.....	Jeremiah Blodgett.
Woodstock & Lincoln.....	Arthur Hunt.

## COÖS COUNTY.

Berlin.....	Horace C. Sawyer.
Clarksville.....	Josiah Young.
Colebrook.....	Hasen Bedel.
	Frank Aldrich.
Columbia.....	Samuel M. Harvey.
Dalton.....	Bert A. Taylor.
Dummer.....	Isaac C. Wight.
Errol.....	John Akers.
Gorham.....	Benjamin F. Howard.
Jefferson.....	Nathan R. Perkins.
Lancaster.....	Jacob Benton.
	William Burns.
Milan.....	Adams Twitchell.
Northumberland.....	Robert Atkinson.
Pittsburg.....	David Blanchard.
Randolph.....	George Wood.
Shelburne.....	Hiram T. Cummings.
Stark.....	Joseph A. Pike.
Stewartstown.....	Edwin W. Drew.
Stratford.....	George R. Eaton.
Whitefield.....	Alson L. Brown.
	Moses H. Gordon.

Mr. Poore of Derry said it was customary for such bodies as this to be sworn before acting, and therefore he moved that the delegates be sworn.

Mr. Mason of Moultonborough hoped that the convention would dispense with that form. It seemed to him to be entirely idle, especially when members did not know what they were going to swear to. They came simply to frame a constitution which would be acceptable to the people, and, when they had done that, he thought the people would be satisfied.

On motion of Mr. Gallinger of Concord, the motion of the gentleman from Derry was laid on the table.

On motion of Mr. Mason of Moultonborough, the following resolution was adopted:

*Resolved*, That we proceed to ballot for president of the convention.

On motion of Mr. Slayton of Manchester, the following resolution was adopted :

*Resolved*, That the chair appoint five tellers, to receive, sort, and count the votes.

The chair appointed as tellers, Messrs. Slayton of Manchester, Mason of Moultonborough, G. W. Burleigh of Somersworth, Frink of Greenland, Putnam of Warren.

The first ballot for president resulted as follows :

Whole number of ballots cast.....	348
Necessary to a choice.....	175
Samuel M. Wheeler had.....	1
John M. Shirley had.....	1
William Burns had.....	1
Francis A. Faulkner had.....	1
Jacob H. Gallinger had.....	1
George F. Putnam had.....	2
Daniel Marcy had.....	6
Gilman Marston had.....	13
Jonathan E. Sargent had.....	88
William H. Y. Hackett had.....	100
Daniel Clark.....	134

and there was no choice.

The convention proceeded to a second ballot, with the following result :

Whole number of ballots cast.....	339
Necessary to a choice.....	170
Gilman Marston had.....	1
Nehemiah G. Ordway had.....	1
John M. Shirley had.....	2
Jonathan E. Sargent had.....	39
William H. Y. Hackett.....	112
Daniel Clark.....	184

and Daniel Clark, having received a majority of all the ballots cast, was declared elected president of the convention.

Messrs. Sargent of Concord and Marcy of Portsmouth were appointed to conduct the president-elect to the chair.

Upon assuming the chair, the president addressed the convention as follows :

*Gentlemen of the Convention :*

Accept my acknowledgment for this manifestation of your kindness. I do not apprehend any great difficulty in presiding over your deliberations, for such is the composition of this body that it will be "a law unto itself." The most that I shall have to do will be to conduct the business with promptness and in order, and if I fail in any particular, gentlemen, I know I shall have your assistance and your forbearance. The duty which has been assigned to us—the amending of the constitution—is one of great delicacy, and requiring great unanimity and wise consideration. The constitution of New Hampshire was adopted in 1792. It is an ancient document. Some of its provisions are obsolete, but most of them were wise in their day and generation, and they are wise to-day. Its framers were men of great experience and far-reaching forecast. They asserted in that constitution the grand doctrine of the political equality of man, and of his right to govern himself. They asserted in it the inalienable rights of conscience, and they declared the liberty of the press. The people of this state have been attached to that constitution: they are attached to it to-day. They have rejected almost every proposed amendment to it, and unless the amendments that are proposed shall commend themselves to that people by their necessity and by their wisdom, they will reject them with decision, if not with scorn. We are assembled here, gentlemen, of both the great political parties. Neither party is strong enough to carry any amendment with the people alone. If anything is to be accomplished, it must be done by harmonious action. Neither would it be well, gentlemen, if we could by one party carry amendments to the constitution, that it should be so. The organic law of a state ought to be adopted by the unanimous action of the whole people, if possible. Written constitutions, founded upon the passions of a party or the division of parties, have been as evanescent as the will of that party. I regard it as one of the proudest things in the history of New Hampshire that her people have clung to that constitution with the tenacity that they



have clung to it. I know they will cling to it in the future, and, as I said, whatever is done by us must be done by almost unanimous wisdom. Commending, then, gentlemen, to you the work that you have in your hands, hoping that it will be done wisely, but promptly, I trust that we shall finish it, and return to our constituencies at as early a day as possible. Again thanking you, gentlemen, for your kindness, I await the action of the convention.

On motion of Mr. Sinclair of Bethlehem, the following resolution was adopted :

*Resolved*, That a committee of twenty, to consist of two from each county, be appointed by the chair to select and report to the convention the names of persons to fill the offices of secretary, assistant secretary, sergeant-at-arms, chaplain, and three door-keepers, for the session.

The president appointed the following gentlemen as such committee :

Messrs. Sinclair of Bethlehem, Spring of Lebanon, Clark of Atkinson, Marcy of Portsmouth, Woodman of Somersworth, Wheeler of Dover, Whipple of Laconia, Dickerman of New Hampton, Carter of Ossipee, Hubbard of Tamworth, Gage of Boscawen, Gallinger of Concord, Ramsdell of Nashua, Jameson of Antrim, Amidon of Hinsdale, Jackson of Chesterfield, Hall of Croydon, Adams of Springfield, Benton of Lancaster, Sawyer of Berlin.

On motion of Mr. Mason of Moultonborough, the following resolution was adopted :

*Resolved*, That the rules of the House of Representatives be adopted as the rules of this convention until otherwise ordered.

On motion of Mr. Marston of Exeter, the following resolution was adopted :

*Resolved*, That the vote adopting the rules of the House of Representatives as the rules of this convention be reconsidered.

Mr. Marston of Exeter moved that the rules of the convention of 1850 be substituted instead.

On motion of Mr. W. H. Y. Hackett of Portsmouth, the following resolution was adopted :

*Resolved*, That the whole matter be referred to a committee of five, to be appointed by the chair.

The President appointed the following gentlemen as such committee: Messrs. Marston of Exeter, Mason of Moultonborough, Sargent of Concord, Faulkner of Keene, Cooledge of Hillsborough.

Mr. Sinclair, for the committee on permanent organization, reported, recommending the following named gentlemen for the several offices, and the report was accepted and adopted.

Secretary, Thomas J. Smith of Dover.

Assistant Secretary, Alpheus W. Baker of Lebanon.

Sergeant-at-Arms, Atherton W. Quint of Manchester.

Doorkeepers, Willard H. Presby of Bethlehem, Clark H. Rowell of Keene, Charles E. Cummings of Concord.

Chaplain, Rev. Leander S. Coan of Alton.

Mr. Wheeler of Dover moved that George J. Manson be employed as official reporter of this convention.

Mr. Wheeler said, in regard to the question of having an official reporter for the convention, that he was not prepared to discuss the motion, neither, perhaps, would he do so, but would prefer that each gentleman should express his mind in regard to it. For the purpose of testing the sense of the convention, he had moved that George J. Manson of Concord be appointed official reporter for the convention. Mr. Manson was a man of very large experience, and often acted as official reporter for the courts of the state, and he presumed his superior could not be found. Mr. Frederick Smyth of Manchester said he would second the motion. He knew the gentleman, Mr. Manson, very well, and he knew that he was well qualified for the position; he also believed that the motion should pass, and for that reason he should support it.

Mr. Gallinger of Concord moved to amend, by adding, after the word convention, the words "and that he be allowed a compensation of five dollars a day," which amendment was adopted, and the motion as amended was passed.

On motion of Mr. Walker of Claremont, the following resolution was adopted:

*Resolved*, That the hours of the meeting of the convention be at ten o'clock in the forenoon, and two o'clock in the afternoon.

On motion of Mr. Shirley of Andover, the following resolutions were adopted :

*Resolved*, That there be a committee on the county expenses of trials, in small cases ; that said committee ascertain and report, as soon as may be, the average annual amount of county expenses occasioned during the last twenty years by the present methods of trying civil cases in which the amount in controversy does not exceed \$300; what proportion the whole amount in controversy, in such cases, bears to the public expense of trying them ; and whether any alteration of the Constitution is necessary to enable the legislature to reduce that expense by providing, for the trial of small civil cases, efficient, expeditious, and just methods, less expensive than those now in use.

*Resolved*, That said committee consist of one from each county, appointed by the chair ; that said committee is authorized to send for persons and papers, and such evidence as will furnish the information sought by the foregoing resolution ; and that if such information, of an exact and mathematical character, cannot be easily and speedily obtained, the committee report such general information and approximate results on the subject as can be readily procured in a short time.

On motion of Mr. Jameson of Antrim, the following resolution was adopted :

*Resolved*, That the delegates draw their seats in the same manner as the House of Representatives.

Mr. Ordway of Warner introduced the following resolution :

*Resolved*, That it is the sense of the delegates to the constitutional convention here assembled, that instead of a per diem allowance, each member be paid the sum of thirty-seven dollars and fifty cents, without regard to the number of days that the convention remains in session,—provided, however, that members serving upon committees, who are required to remain at the capital when the convention is not in session (or when it has

taken a recess), be paid the further sum of three dollars for each day which they are thus detained; and that, instead of mileage, each member be paid his actual cash travelling expenses for two journeys, provided he makes them during the session, from his home to the capital and return.

By motion of Mr. Gilmore of Manchester, the resolution was laid on the table.

Mr. Spring of Lebanon introduced the following resolution:

*Resolved*, That a committee of one from each county be appointed by the president of the convention to consider and report as to the best mode of proceeding to the revision of the Constitution.

On motion of W. H. Y. Hackett of Portsmouth, the same was referred to the committee on rules.

Mr. Marston of Exeter introduced the following resolution:

*Whereas*, By the 14th article of the Bill of Rights, "Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without any delay; conformably to the laws;" and *Whereas*, It is essential to the full enjoyment of the rights guaranteed by this article, and the interests of litigants and of the people generally imperatively demand, that the legislature should have power to establish tribunals for the trial of small causes in a more expeditious and less expensive manner than now obtains: therefore, *Resolved*, That Article 20 of the Bill of Rights be amended, by inserting after the word "practised" the following words, to wit, "and except in cases in which the value in controversy does not exceed one hundred dollars, and title of real estate is not concerned;" and that Article 77 of Part Second of the Constitution be amended by striking out all after the words "other court," to wit, the following words, "so that a trial by jury, in the last resort, may be had."

On motion of the same gentleman, the resolution was laid on the table.

On motion of Mr. Benton of Lancaster, the convention adjourned.

Attest: C. C. DANFORTH, *Temporary Secretary*.

---

THURSDAY, DECEMBER 7, 1876.

Convention met according to adjournment.

(The president in the chair).

In the absence of the chaplain, prayer was offered by the Rev. Mr. Spaulding, a member from Dover.

The journal of yesterday was read and approved.

On motion of Mr. Wheeler of Dover, ordered that the oath of officers be administered to the secretary, assistant secretary, and official reporter of the convention, before they assume the duties of their respective offices.

Thereupon Thomas J. Smith, Alpheus W. Baker, and George J. Manson, respectively secretary, assistant secretary, and official reporter, elect, appeared, signified their acceptance of their respective offices, and severally were duly sworn to the faithful discharge of the duties thereof.

Mr. McDuffee of Rochester introduced the following resolution:

*Resolved*, That the work of this convention be limited to the following subjects:

1st. To diminish the number of members of the House of Representatives.

2d. To increase the number of members of the Senate.

3d. To abolish all religious tests as a qualification for office.

4th. To make provisions for future amendments of the Constitution.

And the same was laid on the table, on motion of Mr. W. H. Y. Hackett of Portsmouth.

Mr. Wheeler of Dover introduced the following resolution:



*Resolved*, That it is expedient to amend the Constitution in the several particulars following :

- 1st. To strike out the religious test.
- 2d. To provide for biennial elections.
- 3d. To provide for biennial sessions of the legislature.
- 4th. To change the time of election.
- 5th. To provide that the legislature shall convene on the third Tuesday of May.
- 6th. To provide that the compensation of members of the legislature shall be by salary and mileage.
- 7th. To provide for reducing the number of the members of the House of Representatives.
- 8th. To provide for an increase of the number of the members of the Senate.
- 9th. To abolish the Council.

Mr. Wheeler. My object in introducing this resolution was to bring certain matters which are agitated at once before the convention, and my design was that these propositions should be taken up separately, and acted upon. Such as are rejected now will be considered as finally rejected by this convention. Such as are adopted might be referred to the appropriate committee or committees appointed for that purpose. I am in no wise strenuous in regard to the passage of the resolution, and only offer it with a view of trying to do my mite towards facilitating the proceedings of this convention, that we may adjourn at an early day.

On motion of Mr. W. H. Y. Hackett of Portsmouth, the resolution was laid on the table.

Mr. Sargent of Concord, for the committee on rules, reported the following, and recommended their adoption :

#### RULES.

1. The president shall take the chair at precisely the hour to which the convention shall have adjourned, shall immediately call the members to order, and at the commencement of each day's session shall cause the journal of the preceding day to be read. He shall preserve decorum and order, and may speak on points of order in preference to other members, and



may substitute any member to perform the duties of the chair, such substitution not to extend beyond an adjournment.

2. All committees shall be appointed by the president, unless otherwise directed by the convention; and the first named member of any committee appointed by the president shall be chairman.

3. No person but the members and officers of the convention shall be admitted within the chamber, unless by invitation of the president or some member of the convention.

4. No member shall speak more than twice to the same question without leave of the convention.

5. When any question is under debate, no motion shall be received but, 1st, to adjourn; 2d, to lie on the table; 3d, to postpone to a day certain; 4th, to commit; 5th, to amend,—which several motions shall take precedence in the order in which they are arranged. Motions to adjourn and lie on the table shall be decided without debate.

6. Any member may call for a division of the question, when the sense will admit of it; but a motion to strike out and insert shall not be divided.

7. A motion for commitment, until it is decided, shall precede all amendments to the main question; and all motions and reports may be committed at the pleasure of the convention.

8. No vote shall be reconsidered unless the motion for reconsideration be made by a member who voted with the majority.

9. Every question shall be decided by yeas and nays, whenever a demand for the same shall be made and sustained by at least ten members.

10. The convention may resolve itself into a committee of the whole convention, at any time, on the motion of a member; and, in forming a committee of the whole, the president shall leave the chair, and appoint a chairman to preside in committee; and the rules of proceeding in convention, and the rule relating to calls for the yeas and nays, shall be observed in

committee of the whole, except the rule limiting the times of speaking.

11. After the journal has been read and corrected, the order of business shall be as follows, viz., 1st, the presentation of resolutions and petitions; 2d, the reports of committees; 3d, the unfinished business of the preceding day.

Which report was accepted, and rules adopted as the rules of the convention.

The following resolution, introduced by Mr. Poor of Derry, was laid on the table, on motion of Mr. Benton of Lancaster.

*Resolved*, That all resolutions proposing amendments to the Constitution be laid on the table, and be printed for the use of the members.

Mr. Eastman of Farmington moved to reconsider the vote by which the resolution of the gentleman from Derry was laid on the table.

Mr. Eastman said he desired to see in print what was proposed for amendments, that he might consider them; and when he spoke for himself, he thought he spoke for two thirds of the members of the convention.

Mr. Marston of Exeter suggested that the gentleman from Farmington should withdraw his motion, and wait until the committee has reported what they think would be the proper mode of proceeding.

Whereupon the motion to reconsider was withdrawn.

The following resolution, introduced by Mr. Slayton of Manchester, was laid on the table on motion of Mr. Mason of Moultonborough.

*Resolved*, That the secretary be instructed to procure, for the use of the delegates and officers of the convention, 375 copies each of the *Daily Monitor*, *Daily Patriot*, and *People Hand Book* for 1876-77, and that the publishers of the papers named be requested to print the rules adopted to-day, in to-morrow's issue.

The credentials of George H. Adams, member elect from

the town of Campton, were presented, and Mr. Adams took seat in the convention.

Mr. Jameson of Antrim moved that the convention now proceed to draw seats.

Mr. Badger of Concord moved to amend by adding the following: "and that all gentlemen who were members of the last convention have liberty to select seats previous to the drawing."

Mr. Tilton of Derry moved to further amend by adding, "and all persons who are deaf shall be so allowed to draw seats."

On motion of Mr. Barton of Newport, the whole subject was indefinitely postponed.

Mr. Hastings of Monroe introduced the following resolution:

*Whereas*, It is advisable that there should be some less expensive mode adopted to revise and amend the Constitution than now exists; therefore,

*Resolved*, That at the expiration of every six years, there shall be a joint committee of the legislature, consisting of two from the Senate and two from each county of the House, to propose alterations and amendments to the Constitution; and the alterations and amendments proposed by said committee, if any, shall be laid before the towns and unincorporated places, and if approved by two thirds of the qualified voters present and voting, then the Constitution shall be so amended.

On motion of Mr. Eastman of Farmington, the resolution was laid on the table.

Mr. Hastings of Monroe introduced the following resolution:

*Resolved*, That all the amendments proposed to the Constitution by this convention shall be disposed of in the committee of the whole.

On motion of Mr. Tilton of Derry, the resolution was laid on the table.

Mr. Gallinger of Concord moved to reconsider the vote providing for the employment of an official reporter.

On motion of Mr. Sanborn of Franklin, the whole subject was referred to a special committee of five, to be appointed by the chair.

Mr. Gallinger said, in support of the motion of the gentleman from Franklin, that there was a misapprehension in his mind in regard to the duties of that officer, and, upon consultation with the reporter and other gentlemen who were qualified to judge, he was satisfied that some different disposition should be made of the matter.

On motion of Mr. Slayton of Manchester, the vote whereby the motion relating to the drawing of seats was indefinitely postponed was reconsidered; whereupon Mr. Tilton of Derry, by unanimous consent, withdrew the amendment introduced by him; and thereupon, on motion of Mr. Ramsdell of Nashua, the convention proceeded, under the direction of the sergeant-at-arms, to draw seats according to the custom of the House of Representatives.

The president appointed the committee on the subject of the official reporter, as follows: Messrs. Sanborn of Franklin, Page of Haverhill, Gallinger of Concord, Martin of Keene, Wheeler of Dover;—and also the committee on resolutions of Mr. Shirley of Andover, relating to the trial of causes where a small amount in damages is involved, as follows: Messrs. Marston of Exeter, Wallingford of Dover, Tuttle of Meredith, Sanborn of Wakefield, Shirley of Andover, Smyth of Ward 2 in Manchester, Parker of Fitzwilliam, Richards of Newport, Burrows of Plymouth, Bedel of Colebrook.

Mr. Sargent of Concord, for the committee on rules and methods of procedure, reported the following resolution, which was adopted:

*Resolved*, That this convention will proceed to revise the present Constitution of the state by considering it as in committee of the whole, till gone through with under consecutive and separate heads, and by sending to special and appropriate committees, from time to time, such amendments as may be adopted by the convention; that there shall be appointed four separate committees, by the president, consisting of two mem-

bers from each county, which shall be committees on the following subjects, viz. :

1. The Bill of Rights, the Executive Department, and the Religious Test.
2. The Legislative Department.
3. The Judicial Department.
4. Future mode of amending the Constitution, and other miscellaneous matters.

These committees shall consider the amendments submitted to them by the convention, and put the same in proper form, and recommend such modifications and amendments of the same as they may deem necessary.

Mr. Mason of Moultonborough introduced the following resolutions :

*Resolved*, That the basis of representation shall be upon the ratable polls.

*Resolved*, That no one shall be considered a ratable poll, for the purpose of voting or for representation, unless he shall have resided within the town six months prior to the election, shall have paid a poll-tax in the town where he resides the year next preceding the election (unless seventy years of age), or shall have become a new resident in the town six months prior to the election,—excepting and excluding foreigners and non-naturalized citizens.

Mr. Marston of Exeter. It seems to me the adoption of these resolutions would be inconsistent with what the convention has already done. There is no committee to which they could properly be referred, and the committees provided for in the resolution as to the mode of business would have no original jurisdiction. The convention having prescribed the mode in which the business shall come before it, and how it shall be done, this proposition seems to me to be not in order, and inconsistent with what has already been done. It seems to me there is no committee to which it could be referred, unless it be the committee of the whole, provided for in the resolution already adopted.



Mr. Mason of Moultonborough. I supposed, when I offered the resolutions, that they would be referred to a committee, and had no idea that the convention would now act upon them finally. I simply desire that they may be referred to the proper committee.

Mr. Marston. There is no such committee. The committees provided for under the resolution are to take such matters as are referred to them, such amendments as have been adopted by the committee of the whole, or by the convention, put them into form, and recommend any addition or change which they may deem necessary.

On motion of Mr. Eastman of Farmington, the resolutions were laid on the table.

Mr. Ordway of Warner. I would inquire of the chair what will be the mode of proceeding in this body in offering propositions in committee of the whole. Under the rules that have been adopted, very many propositions, I fear, would fail to receive a hearing, or attention.

The President. The ordinary method of going into committee of the whole is for some gentleman of the body to move that the house go into committee of the whole, for the purpose of considering a specific bill or amendment. The convention then resolves itself into a committee of the whole, and the president calls some gentleman to the chair. The committee then proceed to consider the subject. They may finish it or not finish it. If they do not finish it, they will rise, report progress, and ask leave to sit again. If they finish their business in committee, they report their action to the body, and then it comes again before the body for final action. It will be in order, in committee of the whole, to move any amendment to any proposition or resolution that may be under consideration. I understand by the rule, though I have merely heard it read, that all these matters are to be considered in order in committee of the whole; and it will be in order, when any motion is made there, to move to amend the motion, and then to make progress, and report as we proceed.

Mr. Ordway. Do I understand that the present Constitution is to be taken up?



The President. I understand, by the rule, that it is to be gone through with.

Mr. Sargent of Concord. In the committee, we proposed that all questions that came before the convention should be referred to the committee of the whole;—and not only that, but that the Constitution shall be taken up and read, so that every member could have the privilege, if he desired, of moving any amendment he might choose. The idea is, that the Constitution shall be taken up in committee of the whole, shall be read and acted upon article by article, any member so desiring making suggestions. Then the committee will decide upon such question as are raised. Then it is provided that such matters as the convention shall adopt shall be sent to the proper committees, that the committees may put the matter in form, so as to see there is no clashing in the various provisions made by the amendments; and that the committee shall also have the privilege of recommending such modifications and amendments to those matters which are committed to them as they deem necessary; but the committees that we have provided for are not authorized to introduce amendments themselves, or introduce matter outside of the matters which are submitted to them by the convention.

Mr. W. H. Y. Hackett of Portsmouth moved to reconsider the vote whereby the rules of the convention were adopted.

Mr. Hackett. In my view, if we should carry out the programme as detailed by the gentleman from Concord, we shall need more than the \$25,000 appropriated for our labors here; and we may as well give up the idea of doing anything, if we fall into the error our predecessors did a quarter of a century ago. The idea of taking up the whole Constitution, considering that in committee of the whole, and then referring matters to a committee to be reported back to the convention, would, if carried out, occupy at least two months. It seems to me, a far more simple and effectual method of reaching the object, and reaching it in a proper manner, would be to raise a committee, say of two from each county, to whom all matters should be referred, allowing the convention a couple of days to make propositions of the mode or manner of the alterations.

The gentleman from Dover [Mr. Wheeler], the gentleman from Rochester [Mr. McDuffee], and several others, have made propositions. I would give every member of this convention an opportunity, during the period of two or three days, to do that,—that is, of making any proposition to modify any part of the Constitution. I would not go into discussion of these several propositions as abstract propositions, without any reference to their bearing on the instrument when you get them into the Constitution. Instead of doing that, let them be referred to this committee of twenty, and let the committee then take those propositions, compare them with the Constitution, and see what would be the practical working of this or that provision when it is incorporated. Let us go away, and remain a week, or five days, while they have this matter under consideration, and then let this committee lay the whole before the convention, and then we should be prepared understandingly to see what is proposed. Then there would be some prospect of reaching a reasonable result within a proper length of time. But if we are going into committee of the whole on every resolution that is brought up, and members here discuss them both in and out of the committee,—refer them to a committee with their minds all made up, one way or the other, upon a mere abstract proposition,—we shall end in doing no good service to the state.

Mr. Sargent of Concord. The committee supposed, in order to proceed to revise the Constitution, it would be necessary, as in the other constitutional convention, that the Constitution should be read; that such motions and amendments as were made by members should be made as it was read. Now, our idea was, that very few amendments would be offered to the sections as they were read. Take the Bill of Rights: there have, as yet, been only one or two amendments offered, so far as I remember, to that. There are a few other amendments offered, on other subjects. I do not suppose there is any wish on the part of anybody here to alter a great deal, but in order to give all a chance to offer their suggestions, let the Constitution be read through in the manner proposed, and such amendments can be offered as are desired. We can do it in three days, in the way proposed by the committee, and save considerable of the \$25,000 appropriated by the state.

Whereupon the motion to reconsider was rejected.

Mr. Mason of Moultonborough. I think there ought to be some more definite understanding in relation to how matters come before the convention. It seems to me very proper.

The President. The chair will suggest that there is nothing before the convention. The gentleman can speak by unanimous consent. I presume that the gentleman will be allowed to go on. The gentleman will proceed; the chair hears no objection.

Mr. Mason. What I was going to remark was, that there are amendments lying on the table, that go to the committee of the whole. I wish to inquire, if, under the present arrangement, a matter brought before the convention cannot be brought up, before the committee of the whole resume the consideration of that part of the Constitution to which it refers.

Mr. President. The chair means, that if anything is offered in the convention, it must lie on the table until the committee of the whole are in session on that branch of the Constitution, and then go to the committee of the whole; and it will be in order to offer amendments in committee of the whole, just as well as in the convention.

Mr. Hurlbutt of Hanover moved that a committee be appointed to read the Constitution, article by article, for the consideration of the convention.

Which was declared out of order by the chair.

Mr. Marston of Exeter. As suggested by the gentleman from Concord [Mr. Sargent], there have been, I think, but two amendments suggested by anybody to the Bill of Rights. If we went into committee of the whole on the Bill of Rights, or any subject, for a few minutes, we could see just about how the proposition would work; and I move that the convention now resolve itself into committee of the whole on the Bill of Rights.

Which motion was adopted.

And the convention resolved itself into committee of the

whole, for the purpose of considering the Bill of Rights of the Constitution.

IN COMMITTEE OF THE WHOLE.

(Mr. Bingham of Littleton in the chair.)

Mr. Sargent of Concord. I move you, Mr. Chairman, that the clerk now proceed to read the Bill of Rights of our Constitution,—first the whole of it, and then taking up article by article, to see what proposition is made in regard to it.

Which motion was adopted; and the clerk proceeded to read the Bill of Rights at length, and then Article 1st a second time.

Whereupon Mr. Marston of Exeter said, I did not understand it was the intention of anybody that any action should be taken on any article unless some person moved to amend it, but that each article as it was read should be read with a view of having it amended, if thought advisable.

The Chairman. Upon that understanding the clerk will proceed, giving an opportunity at the close of each article for any motion to be made as to that article. Whereupon the reading proceeded.

Mr. Hastings of Monroe moved to strike out the word “Protestant,” in the 6th Article.

Mr. Sargent of Concord. In regard to the word “Protestant” in this section, it has been decided that there is nothing in this provision that prevents having other teachers; that the legislature may make provision for Protestant teachers,—yet it is held that there is nothing implied in that which prevents their making societies and employing any other teachers, and paying them. But the whole tenor of this article is, that all denominations shall stand equal, substantially, before the law, and that all religious sects and all denominations of Christians,—which includes the Catholics, for they are Christians as well as others, for they believe in Jesus Christ,—all sects of Christians, shall be under the protection of the law. I do not understand that this section raises the question as to the religious test. I do not care particularly whether it is stricken out, or whether

it remains. I have no objection to its remaining. It shows our fathers had a leaning towards Protestantism. Although they did not deny anybody else the same privileges, they simply said that they might provide for Protestant teachers; but they did not say that they should not provide for any other and different kind they chose, with equal rights. That is the construction put on this section by the courts of this state, and, I think, does not raise the question of the religious test. But, if it is the choice of the convention to strike it out, I am not particular. I, for one, would just as soon it should remain. The framers of our Constitution were at least considered Protestants, and we, perhaps, should say a word in favor of Protestantism in preference to any other religion; yet they did not undertake to confine anybody or bind anybody, or make any provision for Protestants that Catholics and everybody else had not a real right and a real privilege to make for themselves;—and I understand that to be the construction that has been put upon this passage. Therefore, I do not understand that it has anything to do with the religious test; but, as to its remaining in or going out, I have no particular choice.

Mr. Burrows of Plymouth. It seems to me the question before the committee is, if the word does not do any good, or hurt, then there can be no harm in striking it out,—which will show somewhat of liberality, and will, perhaps, lead to the main article. It occurs to me that it should be stricken out, and then we should all know there can be no question about it.

Mr. Gallinger of Concord. A single word. I favor the striking out of that word "Protestant," for the reason that I think it establishes a state religion—something that I certainly do not believe in. And I really think there is an inconsistency in the language we have in these articles. We have, in Article 4, a declaration that the rights of conscience are inalienable; we have, in Article 6, a statement that our public teachers must all be Protestant who are recognized by our legislature in a certain way; and then, in the closing or in the subsequent clause in that article we have the statement made, that no one sect shall be subject to another sect. Now it seems to me there is a glaring inconsistency in this statement. If the rights



of conscience are inalienable,—if no one sect shall be subject to another sect,—why, then, make this provision in our Bill of Rights?—and that does, in my judgment, interfere to a certain extent with the rights of conscience. I am opposed to state religion as I am opposed to state medicine. I am opposed to the state recognizing any system of any belief; and for that reason, if for no other, I shall certainly vote to strike out the word “Protestant” from that clause in our Bill of Rights; and I trust that the motion will prevail.

Upon the question being stated, Mr. Clark of Manchester called for the yeas and nays.

Whereupon Mr. Hastings withdrew the motion, and the same was renewed by Mr. Burrows of Plymouth.

Mr. Clark withdrew his call for the yeas and nays.

And the amendment was adopted, a call for a division by Mr. Pierce of Orford being made and withdrawn.

On motion of Mr. Walker of Claremont, the committee arose, reported progress, and asked leave to sit again.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Bingham, chairman of the committee of the whole, reported that the committee had had under consideration the Bill of Rights of the Constitution, and proposed to strike out the word “Protestant,” in the 6th Article, and asked leave to sit again.

On motion of Mr. Cram of Hampton Falls, the convention adjourned.

#### AFTERNOON.

Convention met according to adjournment.

On motion of Mr. Pitman of Bartlett, the resolution in regard to papers for members was taken from the table and adopted.

On motion of Mr. Mason of Moultonborough, the convention resolved itself into a committee of the whole on the Bill of Rights of the Constitution.

## THE COMMITTEE OF THE WHOLE.

(Mr. Bingham of Littleton in the chair).

Mr. Sturoc of Sunapee introduced the following resolution :

*Resolved*, That it is the opinion of this convention, that all of Article 6 of the Bill of Rights be struck out, except the following: "Every denomination of Christians, demeaning themselves quietly and as good subjects of the state, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law."

Mr. Sturoc. At this stage of the proceedings of this convention, or at any stage, I would be the last man on this floor to introduce any subject-matter calculated to make "confusion worse confounded." If the proposition I have offered be considered too sweeping and radical, I will bow to the decision of this convention; but I want to suggest, Mr. Chairman, that the opening portion of this article, which can be read by every member of this convention, is substantially, if not in words, incorporated in some other article of the Bill of Rights, and that all we need to preserve is that which contains the gist of the article. I do not propose to introduce anything new;—I have taken simply the language of the framers of the Constitution, leaving out that which has become superseded by time,—that which referred to contracts, perhaps, existing at the time of the adoption of the Constitution. I believe that the soul of the thing aimed at should be clearly stated, whether it is in the announcement of these fundamental radical principles, as in the Bill of Rights, or whether it is in the provisions of the other portions of our Constitution, in regard to the working of our system. I believe it is best to be short; and the gist of the article, you will find, is retained in the resolution which I present. The simple object I have in view is to strip away all that has become positively obsolete, and that is simple repetition of some other part of the Bill of Rights.

Mr. Clark of Manchester. I would suggest to the gentleman that he put in a motion to amend. It is not in order to introduce an independent resolution in committee of the whole. The resolution had better come in the form of a motion to amend.



Mr. Sturoc. I will not, Mr. Chairman, stop at the present moment to discuss parliamentary technicalities with the respected President of the convention, but will simply say that the resolution can be amended to conform to the suggestion made by Judge Clark.

Mr. Walker of Claremont. Does the gentleman [Mr. Sturoc] intend that all denominations shall stand on an equality before the law? I see his resolution is worded, "all Christian denominations." I do not know how it is in this state, but there may be some Jews, and I suppose they ought to stand on an equality before the law.

Mr. Sturoc. I will say for the satisfaction of the gentleman, if he is objecting to the language of my resolution, it is simply following that of Article 6; if I am in fault in the resolution, so were the framers of the Constitution at fault in using the word "Christian." I did not propose to obliterate that word. I do not now.

Mr. Wheeler of Dover. It would seem, as this is a matter which calls for some consideration, that the proper course to pursue would be to refer it to a special committee, or some committee which may be appointed hereafter. Whether a motion while we are in committee, to that effect, would be proper, I am not advised; if it is proper, I will make that motion, that it be referred to a special committee.

The Chairman. The motion is out of order.

Mr. Sargent of Concord. It strikes me the difficulty suggested by the gentlemen from Claremont might be obviated. The amendment leaves the matter just as it is, and, if everything else is to be cut off, why not strike out the whole of Section 6, and insert instead thereof, "every religious sect and every denomination of Christians," and then follow through the section in the words of the amendment of the gentleman from Sunapee? In that way "Christians, Jews, deists," anything and everything, would be included.

Mr. Sturoc. The suggestion of the gentleman from Concord does not meet the objection of the gentleman from Claremont [Mr. Walker]. I understand that his view is, that the word

“Christian” should not be used as contradistinguished from Jews. That is the point, and the gentleman from Concord does not obviate that matter when he still retains the word “Christian.”

Mr. O’Conner of Manchester moved to amend the amendment by striking out the first four words, and inserting the words “all religious denominations,”—and upon its adoption called for the yeas and nays.

Mr. Morse of Portsmouth. I simply rise to call the attention of the convention back to the original ground from which we started,—that is, the language of Article 6. I do not think we ever found any difficulty, or any one has ever found any fault, with that article as it stands. It certainly does no one any injury, we never received any disadvantage from it, and every one is satisfied. Now, if we go to work to pick up every technical thing that we can find, that does not do anybody any hurt, in this Constitution, and undertake to regulate it by fixing it to satisfy the views of all these delegates and the views of the voters of New Hampshire, we shall not finish our work till we get to heaven. If this a practical thing, and comes home to the people, and they have an interest in it, then we will spend our time about it; otherwise, I think we had better let the article stand as it is now.

Mr. Smyth of Manchester. I would like to inquire of the gentleman from Manchester [Mr. O’Conner] if he intended, by his amendment, to include the Mormons.

Mr. Mason of Moultonborough. If you will go through this convention, and inquire of every particular member, you will not get two thirds to believe it is proper to make any change in the article. That word “Protestant” makes no war upon any denomination whatever. It does not make war upon Gentile, Greek, Mormon, or any one else. It is simply there to express the regard of the people of New Hampshire for religious institutions. The word “Protestant” harms nobody. It enacts nothing. It is no law whatever. But if you take that word “Protestant” out of this article, and send it to the people of New Hampshire, we all know how many there are who are

rather sensitive on this point, and they will reject it at once ;— and when they reject that, they will be very likely to follow suit when they come to act on the other articles. As the word stands, it does no harm, and rejecting it will do no good.

Mr. Wheeler of Dover. There may be many gentlemen in this convention, not of my profession, who think that it is simply a matter of words ; and, as the matter is now before the committee, I feel it my duty to express my sentiments in regard to it. Now, a case arose in my own city but a few years ago, which was decided by this one word “Christian,” involving the rights of the people of a certain religious denomination in that vicinity. Notwithstanding the word “Christian” was there, the opinion of the court was a divided one ; and it so stands now, to-day, the divided opinion of the court based on this case ; and it may not be altogether an unimportant matter that this question may be settled by this convention. It arose in this way : A denomination called Unitarians, or who were Unitarians, had associated themselves together for public religious worship,—for “the worship of God” was another expression in their articles of agreement,—building a church in Dover. The sentiments of that society became somewhat changed. A majority of the members of that society desired to call a certain man as their preacher, who, perhaps, might not be reckoned a Christian. Still, nobody of any denomination who ever knew him, who ever became acquainted with him, would say that he was not a man as pure and elevated in all his thoughts, and lived as purely a Christian life, as any man in our community. There were many of us who differed from him in his opinions, and there were many, who differed from him, who desired that he should be retained as the pastor of that society. An injunction was sought by the minority of that society to enjoin him, or others who might preach similar doctrines, from preaching in that church. The court gave a divided opinion, and, a majority being in favor of it, an injunction was issued ; and pew-holders—members of the society, who were in the majority—were debarred of the privilege of having such preaching as they most desired. Now, I do not bring this here for the purpose of making any argument for or against the Christian religion.

I will only say, that the gentleman was enjoined from preaching in that society. His views did not meet my own; but whatever mine may be is, of course, of no consequence. I simply mention this matter to bring it before the convention, that they may see that the rights of individuals are infringed; that their rights not only to their religious opinions, but their rights, perhaps, to the property which they may own, are at stake so long as the word remains there; and, further, that some of the judges composing our court at that time were divided in opinion in consequence of these words being in the Constitution;—and anybody will see that that word alone—"Christian"—is entirely inconsistent with the further clauses in the Constitution, or in the Bill of Rights, relating to this subject. That word stricken out, and the word "religious" before the word "denomination," so that it will read "all denominations," would make the Bill of Rights perfectly harmonious and consistent, each part with itself. I only desire to bring this matter to the attention of the convention, without expressing any opinion myself in regard to what the disposition of the question should be.

Mr. Ramsdell of Nashua. I hope my friend from Manchester [Mr. O'Conner] will not insist on calling the yeas and nays. If we commence at this time to make these sharp divisions, I fear that our work will amount to nothing. I do hope that my friend, being assured of most generous treatment by the action of the convention this forenoon, and upon all questions which are likely to come before this convention,—I do hope that we shall not, on this day, the first of our deliberations, have the yeas and nays called. If we do, we shall accomplish nothing.

Mr. Sturoc. If it is within the power of a member of a deliberative body, when, an amendment having been proposed—if the proposer has the privilege to accept the amendment to the amendment, I would like to exercise that power on the present occasion. I see nothing in the amendment to my amendment that is very objectionable; and I certainly, in conjunction with the gentleman from Nashua, would disavow any desire to see any sharp practice in this convention, even if it is within the limits of parliamentary law. I certainly, when I left my home to come

here and represent my little constituency as a delegate, left behind me all the prejudices I ever had—especially, my political, partisan prejudices; and if it is possible for me to accept the amendment of the gentleman from Manchester [Mr. O’Conner], and make it my own, I will do so.

Mr. Barton of Newport. I have read the Bill of Rights, but I never heard it read so well, nor did it ever sound so good as it did whilst being read to-day. I am at a loss to know what it is that the gentleman from Sunapee would have. It is true, that perhaps this preamble might be amended, and it would be all well enough; but the people of this state are accustomed to see it here, and I believe they do not wish to have it stricken out. Now is it not true, Mr. Chairman, that “morality and piety, rightly grounded on evangelical principles, will give the greatest and best security to government;” isn’t that true? “And will lay in the hearts of men the strongest obligations to due subjection;” isn’t that true? “And ‘as the knowledge of these is most likely to be propagated through a society by the institution of the public worship of the Deity, and of public instruction in morality and religion;” isn’t that true? And, to the end of it, isn’t it all true? Then why do we wish to meddle with this, at this time? I am certainly sorry, that when we have met here for the purpose of making amendments in those obvious things which experience has shown ought to be amended, we should dive deep down into this matter at the outset, and bring up those small matters upon which we shall not agree, and which will endanger the adoption of our work by the people.

Mr. Sanborn of Franklin. I believe, sir, that it is the spirit and intention of this convention not to go into any frivolous and meaningless changes; nor to offer propositions for the acceptance of the people, which will only bring confusion to their minds, and result in disaster to the little good we might possibly accomplish. I think there is a way out of this dilemma without taking the yeas and nays, and I therefore move that the committee do now rise.

The Chairman. The amendment of the gentleman from Manchester was accepted by the mover of the resolution, so there is no call for the yeas and nays before the convention.



Mr. Sanborn. I make the suggestion, not as a partisan, for I have no feeling in relation to the article. We have lived under it all our lives; we shall always live in perfect liberty in New Hampshire, and so will every man, be he Greek, Jew, or Gentile; and I think the time of this convention is of infinitely more account than any word whatever in the 6th Article of the Bill of Rights. I make the motion that the committee do now rise.

Mr. Sturoc. Is the motion for the committee of the whole to rise debatable, or may debate be entertained previous to the putting of that notion?

The Chairman. I cannot say, but I am under the impression that it is debatable.

Mr. Clark of Manchester. Let me inquire of the gentleman from Franklin [Mr. Sanborn] what is coming up when the committee sit again?

Mr. Sanborn. The next article.

Mr. Clark. This same motion will come before the committee: If you "rise," what are you going to do when you get up?

Mr. Sanborn. I understand the committee can rise and report to the convention, and the convention can take up the next article.

Mr. M. C. Burleigh of Somersworth. If this committee rise, they will report to the convention the action of the committee that the word "Protestant" was stricken out from the 6th Article of the Bill of Rights, as was done this forenoon. I do not understand that this convention has any idea of letting that article remain in that shape.

Mr. Burns of Lancaster. It occurs to me that, if the committee should now rise and report to the convention, the same question will then come before the convention; then the yeas and nays might be called in the convention. I cannot see, myself, that we should gain anything. My own idea is, we might as well act here as anywhere. So far as I am concerned, if we were framing a new Constitution, I might favor the amend-



ment proposed by my friend the gentleman from Sunapee ; but I knew when I came here it was almost the universal opinion of my constituents that this convention should propose to the people a few practical amendments, and nothing more. I say that it occurs to me we might as well dispose of this matter in committee of the whole, because it will bring us to vote on the question whether we shall make here a few practical amendments, and submit to the people those which shall be really beneficial to the people, and nothing else. We have it under our control, and the matter may as well be settled here as anywhere. My idea is, if you go on here in committee of the whole reading this Constitution article by article,—every man seeing something which he has his own ideas about, and which he thinks he might improve upon,—there will be just as many suggestions and just as many propositions as there are members of this convention, and there will be no end to them ;—we might stay here month after month. Therefore I do urge that we are here for the purpose of submitting a few practical, important alterations to this Constitution for the action of the people,—and having done so, let us go home.

Mr. Sanborn. I withdraw my motion.

Mr. Sturoc. I will simply say, that I think the gentleman from Lancaster [Mr. Burns] will not surpass me in the desire to do that which is practicable, do it quickly, and do no more than that. I am equally impressed, with the gentleman from Lancaster, on this subject. This matter was before this convention without any active interference of mine ; it was the legitimate business of this hour. The 6th Article stood still susceptible of further amendments, and to move to amend it was my legitimate right. There was no snap-dragon move in the matter. I took no advantage, nor intended to take any advantage, of this convention. I would be the last man to have introduced anything squinting at speculative notions, or those subjects that arouse the passions of men. I want simply to stand well with this convention ; and I want to say that my connection with the matter has been thoroughly legitimate—not moved or suggested by any factious motives, but simply to test the spirit of this convention on a matter which was before them legitimately.

Mr. Burns. I wish the gentleman to understand that I do not cast any reflections on him, or question his sincerity. He entirely misunderstood me. But when I suggested that this question be met now, it occurred to me we might have an expression of opinion upon this important question, whether we should propose a great number of amendments, or confine ourselves to a few practical questions.

The question recurring upon the adoption of the resolution as amended, Mr. Gallinger of Concord called for a division.

Mr. Gallinger. I voted to strike from Article 6 the word "Protestant." I am prepared this afternoon to go further, and vote for the amendment which has been proposed by the gentleman from Sunapee, and the amendment to the amendment by the gentleman from Manchester. I do so because I conceive it to be my duty to my conscience and to my state to take that action. The gentleman from Newport [Mr. Barton] raises the question whether "morality and piety, rightly grounded on evangelical principles," is not the right thing. Well, now, our friends the Unitarians, Universalists, and some of the Episcopal persuasion, do not view it in that light; they are not "evangelical." My own connection is with an evangelical church, but I do not believe in legislation that makes discrimination on these matters, any more than on other matters. I think our Bill of Rights in that particular is inconsistent, and it ought to be stricken out. It has been remarked to-day that there is no objection to this article. I hold in my hand a scrap from a newspaper, representing one of the largest religious denominations in this country, and I presume they have the same rights of a political and religious nature that I have, or the gentlemen of this convention have; and yet the editor of that paper says, after quoting Article 2d (some portions of it), and then quoting another portion of Article 6th, "it is hardly to be believed that the men who laid down this broad platform of Article 2d, displayed their narrow spirit by making Protestantism the state religion, in Article 6." That is precisely my position, and the position of a great religious denomination in this country, and I presume of others; and I should like to see the entire matter stricken out and put upon a basis that all men can support.

The gentleman from Franklin [Mr. Sanborn] and the gentleman from Lancaster [Mr. Burns] remind us of the fact that we are to submit a few practical amendments. I suppose both those gentlemen are in favor of enlarging the Senate and curtailing the House, and yet they will find that those amendments, suggested twenty-six years ago, were voted down by a much larger majority than the amendment relating to this matter. I believe the people are ready to expunge this evidence of narrow-mindedness from our Bill of Rights, and I think it is well to make the test here on this occasion.

Upon the question being stated, on division, 129 gentlemen voted in the affirmative and 144 in the negative.

And the negative prevailed, and the resolution was rejected.

Mr. Marston of Exeter introduced the following resolution :

*Resolved*, That Article 20 of the Bill of Rights be amended by inserting after the word "practised" the following words, to wit, "and except in cases in which the value in controversy does not exceed one hundred dollars, and title to real estate is not concerned."

Mr. Marston. I will read the whole article, and explain to the committee the object of the amendment. If it is amended as I propose, it will read in this way: "In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, and except in cases in which the value in controversy does not exceed one hundred dollars, and title to real estate is not concerned, the parties have a right to trial by jury ; and this method of procedure shall be held sacred, unless, in cases arising on the high seas, and such as relate to mariners' wages, the legislature shall think it necessary hereafter to alter it." The only grievance that I know of, that the people suffer by reason of this provision of the Constitution, is the immense disproportion in the costs of the trials of small cases to the amount involved. Our dockets are now loaded down with cases where the amount in controversy is less than \$100, and they are continued from term to term, because there is not force enough upon the bench to hold the terms to try the causes ;

and in a great many instances, when they are tried, they occupy a day, or more, at an expense of from \$100 to \$150 a day to the county—and oftentimes when the whole matter in controversy is only a few cents. Now, under the Constitution as it now stands, the legislature has no power to establish any tribunal to make a final disposition of any cause, however small it may be, without a trial by jury, if either side desires it. This is regarded by a great many people as a great grievance, and a great wrong and burden upon the people. No one knows, probably, to what an extent this thing costs each county in the state of New Hampshire. It is enormous. It is out of all proportion to the few dollars at stake. The proposition here is, not to erect any tribunal for the decision of any causes, but, “in cases where the value in controversy does not exceed \$100, and the title to real estate is not concerned,” make that amendment so that the legislature may, in their wisdom, establish some tribunal, if they think best, by which there can be a more speedy disposition had, and at a less expense to the people, in small causes.

Mr. Ramsdell of Nashua. I was not anticipating that this subject would come before this convention, or this committee, at so early a day. Upon the motion of the gentleman from Andover [Mr. Shirley], a resolution of inquiry was introduced into this convention, seeking to obtain information as to the cost to the public of the trial of small causes in court. And I understand from that gentleman, who is not now present, I think, that it was his purpose, as a member of that committee of inquiry, to make a careful examination, so far as it could be done in a day or two, and furnish the convention with information tending to show that the cost of the trial of these small causes is entirely disproportionate to the results reached. But I see that the matter, contrary to all expectation, is now before this committee, and must be discussed at this time; and you will pardon me if I occupy a few moments in the consideration of this question,—for I believe, if the matter can be properly brought to the attention of the members of this convention, that they will, with very considerable if not complete unanimity, favor the recommendation of the distinguished gentleman from Exeter. Now, if you have been about the courts considerably,

and your ears have been open, you cannot fail to have heard general complaint upon the part of everybody, tax-payers especially, at the enormous expenses which are put on the public by individuals having a controversy about a few dollars, and sometimes about a few cents. It is a fact, that in the county of Sullivan, within a month or two, the court, officered by a distinguished member of the bench, fully attended by jurymen and all the other officers of the court, sat four days, at an expense to the small county of Sullivan of something like \$300 or \$400,—and, as I am told, at an expense of \$300 or \$400 to the parties in the way of costs,—to consider whether or not the title of one of the citizens of that county to a piece of property valued at \$3 was better than the title of his opponent. Now, from long observation of this matter, from a careful examination of the facts and the figures, I think I am justified in saying that if you leave out an occasional large verdict, where there is perhaps little or no controversy—leaving out an occasional large verdict—all the verdicts recovered in our several counties are not more than equal to the public expense incurred. It may be objected that this right of trial by jury has come down from the olden time. We grant it. But it never has been conceded that it was an inalienable right, because always there have been large exceptions in the classes of cases that have been entitled to jury trials. In the grave question of divorce, wherein perhaps one of the most delicate rights of parties is to be adjusted in this state, we have never allowed the parties a right to trial by jury. It never has been done in the matter of alimony; it never has been done in the matter of the custody of children; it never has been done, nor ever claimed as a right, in large numbers of equity cases. It never has been claimed as a right, and never has been conceded as a right, in the settlement of extensive partnership concerns, that parties had a right to trial by jury. I make these suggestions, because it may be urged on the other side that it is a right which never has been infringed upon, and we must not, at this late day, do anything to curtail it. Without marshalling any facts or figures, which I proposed to do, I think I could show you, were it necessary, a state of facts indicating a great evil to be redressed. I, however, desire to say to this convention, what probably almost every man knows, that



the expenses in our counties are increasing every day ; that the number of small causes is rapidly accumulating upon the docket, and that something should be done. The legislature, the past year, upon the motion of the gentleman from Exeter [Mr. Marston], passed a very good referee law. The framers of this amendment do not propose to indicate what should be done. We propose to leave it to the wisdom of the legislature to provide some reasonable and proper tribunal for the proper consideration of these small causes. We desire that the Constitution, at this time, be so amended, that the legislature, in its wisdom, upon a full examination of this matter, may have the power to send the trial of these little causes, which make so much expense, to some tribunal to be agreed upon and created by the legislature. And we can make no mistake in this matter, for, in case the legislature next year, or the year after, should constitute a tribunal which was not entirely satisfactory to the people, that action could be entirely reversed, and some other tribunal could be tried. I hope, Mr. Chairman, that the committee will favorably consider the amendment offered by the gentleman from Exeter.

Mr. Quarles of Ossipee. It seems to me that this is the last amendment for the people of New Hampshire to adopt. The framers of the Constitution believed in the sacred right of trial by jury ; and the people of New Hampshire at that time, and since that time, have ever deemed it a sacred right. Increasing the number of inferior tribunals is wrong in principle, and has ever worked badly in practice. Even the little jurisdiction given to justices of the peace has been abused. It is true that there is an appeal, so that parties have the right of trial by jury ; but we all know that it is a fact that our justices are too often under the control of some counsel,—somebody who will unlock the doors of justice. So it would be with your courts of inferior jurisdiction, in the minds of the people. One instance : An eminent lawyer of Carroll county died, and the justice before whom he brought his cases went to the funeral. Prior to the service he accosted one of the audience, and said,—“ Mr. So-and-so was a very able lawyer—a very successful lawyer. Why,” said he, “I was looking over my docket this morning, and, out of several hundred cases he had brought before me, he



never lost one." Well, that is the state of things existing now : that is what the people of New Hampshire will expect from your courts of inferior jurisdiction, and when you make them, and take away the right of trial by jury, they will say "No." We found that the referee law,\* passed a few years ago, worked badly ; the litigants would not abide by the referee's decision ; the parties against whom the decision was went to the jury, and the costs were increased. You have increased the cost to counties throughout the whole state. The gentleman [Mr. Ramsdell] speaks about "small causes." Do not the same principles of law apply to one hundred dollars and ten dollars? Are not the same rules to be applied to them—they need the same rights and remedies that the thousand dollar cases have—as a matter of principle? The people of New Hampshire think so. What difference does it make whether a hundred dollars is in controversy, or ten dollars? Why, Mr. Chairman, you take the man's ten dollars and give him an inferior tribunal, to give the hundred-dollar man a superior tribunal. The gentleman from Nashua says there are certain cases where the right of trial by jury was never had, as in divorce ; but we give all those cases the benefit of a trial before justices of the superior court, in the highest court, and they are protected, and very well protected, there. I hope we shall not undertake to amend Section 20 in the manner suggested.

Mr. Wheeler of Dover. I think the argument of the gentleman from Ossipee is misleading. The object of the mover was to have some tribunal provided by which these cases can be tried. He [Mr. Quarles] undertakes to say this takes away the right of trial by jury. If he were conversant with the laws of other states, or if he had lived in other states, as I have, he would find that all small cases are tried by a justice of the peace ; and if the parties before the justice wished for a jury, they could have it of their own free will. And I know from my experience, some ten or fifteen years of my life after I arrived of age, that those cases were managed very much better by trial justices, and by intimate neighbors of the litigants, than they are in this state. I think the legislature can provide a tribunal very much better than to have the matter rest as it is.

Mr. Wallace of Rochester. I do not think this right of going through these small cases in court, before a jury, is a right that the people want to maintain. After going through a jury trial, and a reference, you will find you can get more justice from the reference than from a jury. Many men have wrong views about this matter of a jury trial, and I am very glad that so eminent a man as the gentleman from Exeter [Mr. Marston] suggested this thing,—a man who of all men is conversant with the subject. I am glad the motion comes from such high authority. A large amount will be saved in taxes and in time. I hope the amendment will be adopted.

And upon the question being stated, the resolution was adopted.

On motion of Mr. Marston of Exeter, the committee rose.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Bingham, chairman, reported that the committee of the whole had had under consideration the Bill of Rights, and had adopted an amendment to Article 20, as follows: By inserting after the word "practised" the following words, "and except in cases in which the value in controversy does not exceed one hundred dollars, and title to real estate is not concerned."

And the question being stated, the convention adopted the amendment proposed by the committee to Article 6, and also the amendment proposed by the committee to Article 20.

Ordered that the Bill of Rights, as amended, lie on the table until the appointment of the committee provided for by the rules.

On motion of Mr. Burrows of Plymouth, the president was authorized to appoint as many pages as are necessary—not exceeding three—and also a teller for each division of the house.

On motion of Mr. Barton of Newport, the printed copies of the Journal of the Convention to Revise the Constitution of 1791-2, presented by the secretary of state, and now lying upon the table, be so distributed as that each member and officer of the convention may receive one copy.

On motion of Mr. Marston of Exeter, the convention resolved itself into committee of the whole, on so much of Part Second of the Constitution as relates to the General Court.

IN COMMITTEE OF THE WHOLE.

(Mr. Bell of Exeter in the chair.)

The clerk having read so much of Part Second of the Constitution as relates to the General Court,

On motion of Mr. Sargent of Concord,

*Resolved*, That the committee rise, report progress, and ask leave to sit again.

IN CONVENTION.

(The president having resumed the chair.)

Mr. Bell, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the General Court, without determination, and asked leave to sit again.

On motion of Mr. Bell of Exeter, the convention adjourned.

---

FRIDAY, DECEMBER 8, 1876.

The convention met according to adjournment.

(The president in the chair.)

Prayer was offered by the chaplain.

The journal was read and approved.

The credentials of Abial L. Eastman, member elect from the town of Jackson, were presented, and Mr. Eastman took seat in the convention.

The following resolution, introduced by Mr. Adams of Springfield, was laid on the table on motion of Mr. Barton of Newport:

*Resolved*, That the business of this convention be brought to a close on Friday next.

On motion of Mr. Gustine of Keene, the following resolution was adopted :

*Resolved*, That a committee of one from each county be appointed for the purpose of ascertaining the amount of compensation to which the members of this convention are entitled as mileage.

The president announced the following appointments for tellers and pages, and standing committees of the convention :

#### TELLERS.

Division 1, Bedel of Colebrook ; 2, Mann of Benton ; 3, Gilman of Nashua ; 4, Sanborn of Franklin ; 5, Thompson of Concord.

#### PAGES.

Arthur F. Shepard of Concord, Charles H. Duffy of Nashua.

#### STANDING COMMITTEES.

Committee on Bill of Rights, Executive Department, and Religious Test: Messrs. Wheeler of Dover, Berry of New Durham, Stickney of Exeter, Marcy of Portsmouth, Dickerman of New Hampton, Brown of Tilton, Coleman of Brookfield, Abbott of Conway, Ordway of Warner, Blodgett of Franklin, Davis of Amherst, Jackson of Manchester, Amidon of Hinsdale, Buffum of Walpole, Walker of Claremont, Sturoc of Sunapee, Shaw of Lebanon, Sinclair of Bethlehem, Harvey of Columbia, Burns of Lancaster.

Committee on Legislative Department: Messrs. Bingham of Littleton, Johnson of Enfield, Healey of Stratham, Clarke of Atkinson, Smith of Strafford, G. W. Burleigh of Somersworth, Whipple of Laconia, Cole of Gilford, Pitman of Bartlett, Hubbard of Tamworth, Flanders of Wilmot, Colby of New London, Smith of Mont Vernon, Briggs of Manchester, Bemis of Harrisville, Albee of Winchester, Adams of Springfield, Pike of Cornish, Bedel of Colebrook, Brown of Whitefield.

Committee on Judiciary Department: Messrs. Sargent of Concord, Whittemore of Pembroke, Dow of Hampton, Sawyer of South Hampton, Eastman of Farmington, Woodman of Lee, Marsh of Gilmanton, George of Barnstead, Quarles of

Ossipee, Wentworth of Sandwich, Ramsdell of Nashua, Sargent of Hudson, Faulkner of Keene, Vilas of Alstead, Barton of Newport, Moulton of Plainfield, Parker of Hanover, Putnam of Warren, Benton of Lancaster, Howard of Gorham.

Committee on future amendments of the Constitution and other miscellaneous matters: Messrs. Frink of Greenland, Eastman of Hampstead, Woodman of Somersworth, Whitehouse of Rochester, Perkins of Center Harbor, Woodman of Alton, Mason of Moultonborough, Whitton of Wolfeborough, Shirley of Andover, Harvey of Hopkinton, Hutchinson of New Boston, Scott of Peterborough, Faulkner of Swanze, Parker of Fitzwilliam, Perkins of Unity, Labaree of Charlestown, Burrows of Plymouth, Murray of Canaan, Perkins of Jefferson, Twitchell of Milan.

*Ordered*, That the Bill of Rights as amended be taken from the table, and referred to the committees on Bill of Rights, executive department, and religious tests.

Mr. Sanborn of Franklin, for the committee to whom was referred the resolution appointing George J. Manson official reporter of the convention, and fixing his compensation at five dollars per day, submitted the following report:

Your committee have conferred with Mr. Manson, and he declines to accept the position of official reporter to the convention for the compensation named in the resolution, viz., five dollars per day. Mr. Manson, however, informs your committee that he will accept the position at the usual rate of compensation, to wit, twenty-five cents per folio of one hundred words. Your committee, therefore, respectfully refer the resolution back to the convention.

Mr. Thompson of Concord moved an amendment, and in support thereof addressed the convention as follows:

I would say, Mr. President, that the auditors of the state printer's accounts are sworn officers of the state, and practical printers; and I am confident that they would not allow any work to pass except such as would be satisfactory to the people of the state of New Hampshire.



The President. The chair would inform the gentleman from Concord that his amendment, in the form in which it is presented, is not in order. If the gentleman will move to reconsider the vote providing for a per diem compensation, and the same is reconsidered, it will then be in order.

Whereupon, on motion of Mr. Thompson, the vote providing for a per diem compensation for the official reporter was reconsidered.

Thereupon Mr. Thompson of Concord introduced the following amendment:

Strike out the words "and that he be allowed a compensation of five dollars per day," and insert the following: "and that he be paid for his services the usual compensation for similar work,—the amount of work done, and the rate of compensation, to be ascertained and fixed by the auditors of state printer's accounts, and certified by them to the state treasurer."

The President. The question will be upon striking out the amendment of the gentleman from Concord [Mr. Gallinger], and inserting what has just been read.

Mr. Wheeler of Dover. Having been upon this committee, I feel it my duty to call one matter to the attention of this convention; and it is, What kind of a report do you want? It will make a very considerable difference in the expense. Do you want a report that shall embrace all the proceedings of this convention,—everything that is done and said,—a debate, for instance, in full? or, do you want an abstract report,—one which would embrace what was done without embracing or reporting all the discussions here in the convention? This is a matter of considerable importance, because it enters into the item of expense, about which the American people are very sensitive, and New Hampshire as much so as any state in the Union.

Mr. Gallinger of Concord. I desire to submit a single remark upon this question before a vote is taken. I have simply one object, which is this,—that I predict that it will be impossible to determine beforehand the amount of work our reporter is expected to perform under the resolution amended as pro-



posed. It will be necessary for the reporter to take full notes, which he does not wish to do if they are not to be used. Our reporter has made a proposition which, it occurs to me, will commend itself to every member of the convention, and which, I think, will be preferable to that of the gentleman from Concord [Mr. Thompson],—that is, he is prepared to make an abstract of all papers presented and speeches made in this convention. He will write out this abstract, and incorporate it with the report of our secretary; and for that work he will require twenty-five cents per folio, but will give us the assurance that the entire sum shall not exceed the salary of the clerk of the House of Representatives. If the resolution is left in the form read, from the very nature of the thing he cannot tell the amount,—it might be \$500 and it might be \$2,000; but, by giving an abstract of the speeches made here, he guarantees us that the sum shall not exceed \$500. Now, we should have something to go upon—a basis. I had prepared an amendment covering that point, but presume it is well enough to act first upon the amendment suggested by my colleague. I hope the amendment will not be adopted.

And, upon the question being stated, the amendment was rejected.

On motion of Mr. Gallinger, the following resolution was adopted as a substitute for the preceding proposition:

*Resolved*, That George J. Manson be employed as official reporter of this convention, his duties to consist of making an abstract of all papers and debates, which shall be incorporated with the records of the secretary,—the compensation of the reporter to be twenty-five cents per folio, and that his entire compensation shall not exceed the sum allowed the clerk of the House of Representatives.

Mr. Sturoc of Sunapee. I would like to move to reconsider, having voted with the majority, a reconsideration of the vote by which we agreed to employ an official reporter, and compensate him in a particular way. I am in the condition of the ancient philosopher who had seen so far into the subject, but cried out, in his endeavor to see, "More light, more light!" I

do not precisely understand this matter, and I am willing to confess my ignorance. What is this official report to amount to? I understand the amendment of the gentleman from Concord [Mr. Gallinger] was to the effect that this official report was to be dovetailed or incorporated into the journal of the secretary. Almost an impossibility,—at all events, a work of great labor and immense expense. At any rate, if it is simply an abstract, giving just the gist of what we say on a subject, it will not cast a great deal of light on the proceedings as chronicled by the secretary; and will it not cost more than it will come to? I therefore move, with a view to another proposition, that we reconsider the vote by which we employed an official reporter, and proposed to compensate him in a particular way.

And upon that question being stated, Mr. Sturoc called for a division.

Mr. Page of Haverhill. It occurs to me that the question of an official reporter is settled. The members have expressed themselves several times in regard to the matter. My idea is, so far as our talk is concerned, that the shorter the speeches are made, the better our constituents will be satisfied. After we have given our reasons we had better keep still.

Upon the question being stated, on division 75 gentlemen voted in the affirmative and 102 in the negative; and the negative prevailed, and the motion to reconsider was rejected.

On motion of Mr. Sargent of Concord, the convention resolved itself into committee of the whole on so much of Part Second of the Constitution as relates to the General Court, and that all resolutions now on the table relating to that subject be referred to said committee.

#### IN COMMITTEE OF THE WHOLE.

(Mr. Bell of Exeter in the chair.)

On motion of Mr. Bartlett of Manchester, the clerk proceeded to call the articles one by one.

Mr. Smith of Peterborough introduced the following amendment:

Amend Section 3 by striking out the words "every year" in the first line, and inserting instead thereof the word "biennially."

Mr. Smith. My object in moving this amendment to the Constitution is this: I am fearful, from the history of the past and from the opinions of the members present with whom I have conversed, that during this convention we shall not be able to reduce the members of the house; and I have taken this course in order, if that proposition does not succeed, that instead of meeting annually we shall meet biennially. I understand, from the treasurer of the state, that the expense of the legislature annually is in the vicinity of fifty thousand dollars. If we can save one session in two years, we shall save to this state in taxes, annually, about twenty-five thousand dollars; and my object is, to go before the people of the state with such an amendment, in order to reduce the expenses of the state, as will command their approval. I think the laws of this state, which are made from year to year, are too many in number; and if we can reduce the sessions from an annual session to a biennial, by that means the laws will be less in number than are now made, and we have a chance to test those laws for a longer period of time before we shall have an opportunity to repeal or amend them. It is a fact, known to every person who is conversant with the laws of New Hampshire, that the laws made one session are to a great extent either repealed or amended during the next session; and my object is to save this expense to the state, and make such laws as shall have a fair trial through two years with the people, before the legislature has the chance to appeal or amend those laws.

And the same was adopted.

Mr. Slayton of Manchester moved further to amend by striking out the words in the first and second lines, "on the first Wednesday of June," and inserting the words "the first Wednesday of January," and also to make a similar change in the fourth line of said article.

Mr. Bartlett of Manchester. It strikes me that the merit of this proposition depends upon whether or not we change the time of the annual election; and it strikes me that we shall proceed more regularly and understandingly if we omit to act upon

this amendment until we determine whether or not we change the time for the annual election ; and, with that view, I move that this amendment be passed over for the present.

Mr. Eastman of Hampstead moved to amend the amendment by striking out "January" and inserting "December."

Mr. Sawyer of Berlin gave notice, if the amendment was rejected, he should move to insert the word "May."

Whereupon the motion of the gentleman from Manchester was adopted, and the subject was laid aside for the present.

Mr. Thompson of Concord moved the following amendment :

Amend Article 5 by inserting after the word "Constitution," where it first occurs in said article, the following words: "or the Constitution of the United States."

Mr. Thompson. I desire to say just one word as to this amendment. Gentlemen of the convention very well understand, I suppose, that this Constitution, of which this article is a part, was originally adopted before the Constitution of the United States. The convention of 1850 inserted the amendment that I suggest, and it seems to me that it is very proper that the amendment should be inserted here now.

Mr. Benton of Lancaster. I see no necessity for that amendment at all. If the legislature of this state pass any law in opposition to the laws of the United States, of course it would be inoperative ; and if the amendment were adopted, they would be just as liable to pass them, through ignorance of the laws of the United States.

Mr. Clark of Manchester. I think I see the object of the amendment of the gentleman from Concord [Mr. Thompson], but I desire to suggest to him and to the convention, that he cannot attain his object fully by that amendment. The legislature of New Hampshire has no more power to pass a law against the laws of the United States, than it has against the Constitution ; no more power against a treaty, than against the Constitution ; so, to make his amendment perfect, I think it should be "law, treaty, and Constitution." I question whether it is policy to use the time of the convention, and to submit such an amendment to the people.

And the question being stated, the amendment was rejected.

Mr. Page of Haverhill introduced the following amendment, which was adopted :

Amend Article 5 by striking out the word "annually" in the tenth line, and inserting the word "biennially."

Mr. Hardy of Keene. I think there should be a provision somewhere in this Constitution in regard to the power of the legislature to make laws whereby towns and cities may grant subsidies, or make over gifts, etc., to railroads. In looking it over, I thought it might properly come in this section. This section seems to be to grant certain powers to the legislature. I think, perhaps, we might restrict the legislature. Of course I am willing to have it done, but the substance of what I design to introduce is, that the legislature shall have no power to pass laws whereby subsidies can be granted to railroads, and I have prepared hastily a few lines, and move to amend as follows :

Add to Article 5 the following words, "No town or incorporated place shall have the right, either directly or indirectly, to suffer their credit to be used for the especial benefit of any corporation, nor to raise money for the purpose of loaning or giving the same to any corporation, nor for the taking of stock therein, nor to issue bonds therefor."

The gentleman having accepted an amendment proposed by Mr. Morse of Portsmouth, to add the words "nor to issue bonds therefor"—

Mr. Hardy. The question whether the legislature has the power to make these laws at the present time has been recently settled by the supreme court. The question was raised in the county of Cheshire, growing out of the vote of the city of Keene. The court decided that the law whereby the towns vote these subsidies to railroad companies is constitutional and binding. Therefore, that matter having been decided, I propose this amendment.

Mr. Smyth of Manchester. I hope that this amendment will prevail, for I believe the people of New Hampshire almost unanimously desire it.



And the question being stated, the amendment was adopted.

On motion of Mr. Smith of Peterborough, the following amendment was declared adopted :

Amend Article 9 by striking out the word "annually" in the second line, and inserting the word "biennially."

Whereupon, on that question a division was called for by Mr. Whipple of Laconia, and 201 gentlemen having voted in the affirmative and 6 in the negative, the affirmative prevailed, and the amendment was adopted.

Mr. Wentworth of Concord. It occurs to me, before we proceed any further, that we should have the sense of this convention in regard to what we call "ratable polls." I think the gentleman from Moultonborough [Mr. Mason] introduced something now lying on the table about ratable polls. I think, in order to proceed properly in this matter, we should first ascertain what we consider ratable polls. I would call for the reading of the resolution which the gentleman from Moultonborough presented.

And the resolution of Mr. Mason being read—

Mr. Smith of Peterborough. I rise for information, whether this resolution keeps young men from voting who have attained the age of twenty-one within six months of the time of voting.

The Chairman. The chair does not understand that this determines the right of who shall vote, but only determines what shall be the ratable polls as a basis of representation.

Mr. Sargent of Concord. There are a great many ways in which this article may be amended; there have been a great many different propositions before the people to amend it. We may amend it one way, by deciding what shall be ratable polls; we may in another way,—and that is the way of the last convention,—by increasing the number that shall be required to send one representative, and still more the number required to send a second. That was not adopted by the people. There is another way which has always struck me as the best way,—that is, come right to the point, and say the state of New Hampshire shall be divided up into a certain number of districts,



as equal as may be, each one to be entitled to send a certain number of senators and representatives. Then, when each party in that district are called to nominate their senator, they would, at the same time, nominate the representatives they are entitled to. Then, having nominated, they would all go home, and vote for them just as they do now, without any inconvenience. Say the house was composed of one hundred and fifty members, and the senate of thirty. It has always seemed to me this was the proper and the best method of getting at this matter of representatives, both as to the senate and the house; but I don't know as the convention would agree. Perhaps the people would not. The other way has been tried; this never has, but it might not be more successful. Now what I want is, that this committee of the whole shall have some plain, square proposition laid before them, upon which they can all act understandingly and act to the point; and I was about to make the motion that we first consider whether we will undertake to change the number of the house of representatives. Let this be first decided, Shall we undertake to change it in any way? and second, if so, How will we change it?—and let us discuss the several principles together. In discussing the question before the convention in the manner I suggest, the question of increasing the senate would be involved, and it would be necessary to consider that somewhat. The question would be, first, whether we would undertake to make any change in the number of representatives, and, second, in what manner that change shall be made.

On motion of Mr. Sargent of Concord, the resolution of the gentleman from Moultonborough was laid aside for the present.

Mr. Scott of Peterborough introduced the following proposition:

That a vote be taken in committee of the whole upon the four propositions following, to wit:

1st. Shall the number of representatives to the house be diminished by increasing the ratio of representation?

2d. Shall the number of representatives to the house be diminished by districting the state into representative districts?

3d. Shall the number of representatives to the house be diminished by diminishing by definition the number of ratable polls?

4th. Shall the number of representatives to the house be diminished by a classification of all towns having less than one hundred and fifty ratable polls?

Mr. Scott. I think this substantially embodies all the propositions that I have heard from various sources in regard to the methods of diminishing the house ; and I would offer this as a proposition, embodying the suggestions of the gentleman from Concord [Mr. Sargent].

Mr. Marston of Exeter. Probably no more important question will come before this convention than this—upon the subject of representation of the people in the legislature. I think the propositions of the gentleman from Peterborough are very distinct and wise ones, and we can take the sense of the committee upon them, and it will mean something. If we were to undertake to follow the suggestion of the gentleman from Concord [Mr. Sargent], we should determine rather an abstract proposition than anything else, and whether this convention or whether the people will reduce the representation depends on the manner in which it is done. Nobody will want to vote, and bind themselves by voting, that they will reduce the representation without knowing how it is to be done. There is not a republican in this convention, nor is there a republican in the state of New Hampshire, that would be willing to reduce the house of representatives one half, or at all, if it would be in favor of the other party ;—and just so with the democrats : they will not have it if it is to be in favor of the republicans ; and they ought not to. Certainly it ought not to be done. I am not myself in favor of much reduction ; I believe in a large house. I do believe that when you have got a representation of three hundred people,—when one half of them must of necessity be farmers,—you cannot get any bills for tunnels, through the Hoosac Mountains or the White Mountains, through the house. Reduce the house, and how long before you have the corruption that you have in New York?—how long before the salary of the state officials would be doubled?—how long before some railroad

scheme would be adopted, on the ground of a great public good?—and it will go through your legislature if lawyers, doctors, and agents of factories compose it. They do not look at money as the farmers of New Hampshire do—the money that they earn before throwing it away. I am in favor, therefore, of a pretty large house—a representation in the popular body, the majority of whom shall be farmers. Therein lies our safety. There are other circumstances I propose to present to the convention at a proper time; but now the proper question is, whether we shall say we will reduce the house. Who can say whether he will reduce, without knowing how? I do not know. It does not occur to me now that there is but one way, as the parties are divided in this convention and the state of New Hampshire, of reducing it at all. If done at all it has got to be done justly—in a manner that both parties may feel they are not injured. It has got to be done that way, or else it cannot be done. Now we might perhaps define what shall be ratable polls. I do not know that it would affect one party more than another; I do not know that it would give an advantage to one or the other. If I thought it would, I would not vote for it.

If this motion were adopted, I do not know how many members it would take off of the house. [A voice—"About seventy!"] That is enough. I do not want to build a new state house, but I want a large house, and I want the members to come here every year. Now I hope the suggestion of the gentleman from Concord will not prevail, but that we shall proceed to take the vote upon the proposition of the gentleman from Peterborough. When it is submitted to us to say whether or not we will increase the ratio—as, for instance, whether there shall be 175 or 200 in a town before they shall be allowed a representative in the legislature—I know what that is, and I shall vote against it. I want every town to have its just representation,—that is, make a suitable number of ratable polls in a town entitled to a representative. I do not want this state divided into districts; I want to know who my representative is; I want the town representation. I believe it is the best plan ever adopted. I believe there is no such a government in the world as the town government, where all the people

come together, and the very men who earn the money vote to appropriate it. They want their representative to be in the legislature, and when he comes home they want to have him tell what has been done ;—more than that, if he has not done his duty, they want to have their hand upon him, and be able to tell him to stay at home another year.

And another thing: I think it is very desirable that we have a large house. It is a very proper object of ambition for young men to take part in the affairs of the country. It makes the young man a better citizen; it gives him more self-respect; it is better every way for him to help make the laws of the country;—he can talk it over with his children, in his family, and with his neighbors. I want a great many of our young men to come here and help make the laws.

Mr. Barton of Newport. I supposed, until I heard the able speech of the gentleman from Exeter,—a gentleman who has had the experience that he has had in this house,—that he was in favor of diminishing the number of the house in some rational and proper way. I will admit, and I will say as much in that direction as the gentleman himself, that it is a matter of ambition for young men to be representatives in the house; but the question is, whether this house is big enough to educate the whole state, and whether we are willing to send men in unnecessary numbers for the purpose of educating them. Now I agree with him that I am in favor of the town system against the district system. I think with him that the towns ought to be represented, and they ought to have men they can put their hands on. I think with him that the people of this state are wedded to the town system and will never abandon it. No matter how much better it might be, in some respects, to district the state, the towns of this state are wedded to the system, and will never abandon it, in my judgment. I do not understand why the proposition of the gentleman from Concord [Mr. Sargent] is not proper to be made here. Why not first ascertain whether we will diminish the house, or whether we will indicate our purpose to do so, or not? If we indicate that we will, then it remains to the convention to say how it shall be done. But there is another thing: When I came here I came as a citizen of the state. I did not come here as a republican, nor

as a democrat. I came here to know no party distinction, and I am going to live through that way, if God spares my life; and I am sorry that the eminent gentleman was the first man to introduce "democrat" and "republican." The terms have been introduced—for what purpose I do not know. I do not understand, in making the fundamental law of this state, that we are to know any party, and, for myself, I will know none. I say, from the experience we have had in the house, and from what I know of the sentiment of the people of this state, they desire that the state shall be represented in a certain proportion that remains for the convention to order and the people to vote on.

Mr. Whipple of Laconia. I suppose that every gentleman who has come here understands something of the wishes of his constituents, and, in the vote on the question whether the legislature of the state shall be reduced at all, will have in mind what he knows of the sentiments of those who have sent him here. As to the question whether this convention, representing the popular sentiment of the people of New Hampshire, understand that they sit here to express an opinion on the question of whether the house shall be reduced or not, I take it to be well settled in everybody's mind that it is to be, one way or the other; and you may doubt how much the house shall be reduced—you may doubt as to the mode in which the house shall be reduced. But when my friend, the General [Mr. Marston], takes the ground that you cannot vote whether you will reduce the house at all until the mode in which it is to be reduced is determined, I am compelled to differ with him. Will any man tell me how I can decide whether I will cut a custard, until I know how I am going to eat it? Will any man tell me how I can go to Fisherville, until I decide whether I am going to go on the cars or by a team? We know we want to reduce this house, but how we will reduce it is a subject for consideration. I want to know what members think about it: then we can go to work and reduce it in some fair way.

A delegate suggested that the motion be amended by making it read "Is it desirable?" etc.

Mr. Sargent of Concord. I knew there were those who did desire a reduction of representation. I thought we had better



take the sense of the convention, and find out, to start with, whether we want to do anything. If we do not, we will go on to the next subject; if we do, then we will decide now.

Mr. Cram of Hampton Falls. For myself, I should like to reduce the house. When I came in here and saw how many delegates there were, and found that I could not have a seat to sit down upon, and ached all the time, I concluded that it was best to reduce this house. I can go home, and my constituents will justify me in reducing this house a little—not a great deal; and if there is a way in which it can be reduced a little, I should be happy to run the risk of voting for it.

Mr. Ordway of Warner. I believe there is one way to reduce this house that has not been named, and it is this: If you raise the number of ratable polls and legal voters to two hundred, and class the towns under one hundred, you will cut off on the one hand and affect a certain interest. If you then increase the number for the next representation to five hundred, you will cut off the cities to a certain extent, and thus even this matter up. I have made a computation, and I think that, fixing the number of ratable polls and legal voters for the first representative and the next representative at five hundred, you will get a house of two hundred or two hundred and twenty-five. I say that, perhaps, is worth looking at, and in voting on this question I will vote to reduce the house, because I believe that proposition is desirable.

Mr. Ramsdell of Nashua. I was fully convinced, by the suggestion of my friend from Laconia, that the suggestion of the gentleman from Concord should prevail. If I had not been so convinced, the suggestions of the gentleman from Warner would have convinced me. The gentleman from Peterborough has brought forward four methods by which it can be reduced: the gentleman from Warner has spoken of another method: different methods may be presented,—twenty, fifty, or a hundred. I think it is a matter of economy and good sense to pass upon the suggestion of the gentleman from Concord, and decide whether we will take any action at all upon this matter, and then to say how it shall be done.

Mr. Slayton of Manchester. I am in favor of the proposition



of the gentleman from Concord, and I hope the sense of this committee will be taken on the question. I think a very large majority of the people of the state desire the house reduced, and I think amongst those men will be found all those gentlemen who have sat in the hot days of July in the legislature. Either we must have a new state house, a larger hall, or reduce the representation. My idea was, that perhaps thirty-six senatorial districts, with six members of the house from each district,—which would make the house two hundred and sixteen members,—might be reasonable and satisfactory, without getting a new state house. I was sorry to see the committee, as they did by so large a majority, enact that they wished to sit but once in two years. The Vermont people are very much sick of their biennial sessions. That is the universal expression of all my friends in that state. I was in hopes of reducing the house and keeping the sessions up each year. I am in favor of the proposition of the gentleman from Concord.

Mr. Sargent of Concord moved to amend the proposition of the gentleman from Peterborough by inserting as the first question the following :

1st. Is it desirable to reduce the number of members of the house?

Mr. Marston of Exeter. I do not see that there is any objection to the proposition of the gentleman from Concord as he has modified it. To take the vote in the committee as to whether it is desirable or not is all very well, but it is a very different thing from taking a vote as to whether it shall be absolutely diminished, without knowing anything about how it shall be diminished.

And the question being stated, a division was called for by Mr. Whipple of Laconia, whereupon 268 gentlemen voted in the affirmative and none in the negative, and the affirmative prevailed, and the amendment was adopted.

Mr. Page of Haverhill introduced the following amendment :

Amend Article 9 by striking out all after the word "privileges" in the fifth line, and adding the words "having four hundred inhabitants, may elect one representative; if two

thousand inhabitants, may elect two representatives; if four thousand inhabitants, may elect three representatives; and so proceeding in that proportion, making two thousand inhabitants the mean increasing number for every additional representative;—the number of inhabitants in each case to be taken, to be the number shown by the last preceding official census taken under the authority of the United States; and no towns shall be so divided, or cities warded, as to increase their ratio of representation.

Mr. Page of Haverhill. I have no remarks to make on the proposition. I merely desire that it be considered with the other propositions. The effect is to lay the basis on population instead of ratable polls, as heretofore.

On motion of Mr. Bartlett of Manchester, ordered that the committee rise, report progress, and ask leave to sit again.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Bell, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the General Court, without determination, and ask leave to sit again.

On motion of Mr. Benton of Lancaster, the convention adjourned.

#### AFTERNOON.

Convention met according to adjournment.

On motion of Mr. Wheeler of Dover,

*Ordered*, That when the convention adjourns to-day, it adjourn to meet on Monday next, at four o'clock in the afternoon.

The president announced the following appointments as committee on mileage: Messrs. Gustine of Keene, Clark of Atkinson, Foss of Strafford, Hodgdon of Barnstead, Coleman of Brookfield, Lyford of Canterbury, Cilley of Manchester, Alexander of Grantham, Sawtell of Lyme, Aldrich of Colebrook.

Mr. Wentworth of Concord having moved that the convention go into committee of the whole—

Mr. Ordway of Warner. Will the gentleman give way for a moment?

Mr. Wentworth having consented to do so—

Mr. Ordway. I understand that a resolution passed this afternoon, adjourning over from to-day until Monday afternoon; and as very many of us were not present, I should like the privilege of calling up the resolution which I offered with reference to the pay of members. I should like to get a vote on it. I do not think we ought to adjourn from Friday until Monday, without knowing how much money will be expended; and if the gentleman will give way, I will call up that resolution so that we can act upon it.

And the gentleman moved to take from the table that resolution.

Mr. Wheeler of Dover. I do not think it an opportune time to take that resolution from the table. There are very many members of the convention absent, and, as it is a matter that touches the pocket of every individual, I should hope that all might be present and act upon it.

And the question being stated, the motion was rejected.

On motion of Mr. Wentworth of Concord, the convention resolved itself into committee of the whole on so much of Part Second of the Constitution as relates to the general court.

#### IN COMMITTEE OF THE WHOLE.

(Mr. Davis of Amherst in the chair.)

Mr. Hastings of Monroe introduced the following resolution:

*Resolved*, That all towns that now have one representative may return the same; all that have two shall have but one; so on with all the larger towns and cities—their delegation be reduced one half: *Provided*, that if any town or city shall neglect or refuse to send a representative to which they are entitled, the money said member would draw from the state treasury, in case of his election and serving, shall be deducted from the state tax of said town.

Mr. Burrows of Plymouth introduced the following amendment:

Amend Article 9 by striking out the words "ratable polls" wherever they occur, and substitute therefor the words "legal voters."

Mr. Scott of Peterborough. As I understand the matter, that is not in order before the committee. The object of my motion is to systematize the action of the committee, so that we can take up and pass upon the several propositions to reduce the house separately, and then we will come to some conclusion in regard to what the desire of the committee is in regard to reducing the representation of the house of representatives. I hope that my motion will prevail, and that the questions will be passed upon in the order in which they occur in that motion.

Mr. Walker of Claremont. I move to take up the third proposition of the gentleman from Peterborough, because I think it is the most practicable proposition to get before the convention, or the committee of the whole, for the reduction of the members of the house of representatives. It seems to me to accomplish the object in a direct way. Some one has said it will reduce it 70. If it will accomplish that, why, I desire to bring it before the committee.

And, on the question being stated, the motion was rejected on division.

Mr. Clark of Manchester. Mr. Chairman, will you allow me one word? There are here several propositions to diminish the house. Some gentlemen may be in favor of one, and some gentlemen may be in favor of another. Gentlemen may be fearful that if one is considered they will be shut out, and they will not have any opportunity of having their particular amendment considered. Now I propose to the committee that we take up one proposition, and debate it, and amend it, and define it, and do all we need to do with it, and then lay it aside without coming to a vote; then take up another, and do the same with that, until we have got through;—then we will make up our minds as to which one we will have.

Mr. Ordway of Warner. That is right.

The first proposition of Mr. Scott of Peterborough being before the committee,

Mr. Ordway of Warner introduced the following amendments :

Strike out in the 9th Article, after the words "entitled to town privileges," the words "one hundred and fifty," and insert the words "two hundred."

Also, strike out in the same article the words "four hundred and fifty," and insert the words "seven hundred."

Also, strike out in the same article the words "making three hundred," and insert the words "making five hundred."

Also, in the 10th Article, strike out the words "less than one hundred and fifty ratable polls" and insert the words "two hundred ratable polls."

Mr. Ordway. Gentlemen of the committee, I have offered this proposition, and believe it to be one of the fairest that can be presented to this committee to reduce the house of representatives. If the gentlemen here have the *People Hand Book* containing the vote of the different towns, they will see by looking at this amendment that the towns that have heretofore been allowed to send two representatives almost universally will have but one, and the towns that have heretofore sent three representatives will have but two. In other words, this will take out of the number of representatives a sufficient number to make room for our friend [Mr. Cram of Hampton Falls] who spoke this forenoon; it will take out enough to make room without disturbing the political complexion, in my judgment, three votes. It will accomplish another thing,—no amendment may perhaps be necessary; it will cause a reduction in the house of representatives by preventing a few voters upon a special privilege granted by the legislature from having a member. Two hundred legal voters and ratable polls is as low a number as ought to get representation, considering the large expense that the state has been subjected to on account of the meeting of the legislature. This will curtail the representation, and prevent the young men from obtaining the advantages which my friend from Exeter [Mr. Marston] spoke of this forenoon. It will cut



off some of those men, but it will, at the same time, give corresponding advantages to those men by cutting off at the other end a certain number in the large towns and cities. The cities need not complain of this, for two reasons: first, they get a small advantage in increasing the number over the small towns, in the first part of the amendment; in the next place, the cities, as a general thing, send gentlemen here of more experience, better prepared to exercise a controlling influence in legislation, than the small towns; therefore this ratio of five hundred looks large. Gentlemen will see that the reason why this should be large is, that we must commence somewhere to cut down the house. If you take this house and fix four hundred for the representation, the towns that have two representatives now will seek, by strategy and ratable polls, to retain their two representatives, but if you change from four hundred and fifty to seven hundred there will be no such opportunity, and the towns that now have two representatives will have one, and, as a general thing, the towns having three representatives will have two; and the loss will be, first, upon the small towns by a few votes, the large towns by a surplus of votes, and by the aggregation of members of the legislature which some large towns favor. I have heard members say in the last legislature, and at other times, that it was too much work and too cumbersome to go through electing so many men. I do believe, while this proposition may not be perfect, that this, on some one similar, is the only one in which you can reconcile the people of this state to yield a large number of members and give us reduction in the house.

Mr. Walker of Claremont. It was precisely on that rock that we split in 1850,—disfranchising those residing in cities. That proposition, more than any other that was submitted to the people, helped to destroy all that the convention had done, and brought upon the convention the condemnation of the people. I hope this amendment will not prevail, for the reason I have stated. The only practicable proposition before the committee, in my judgment, is the one to define what constitutes a ratable poll.

Mr. Clark of Manchester. I should like to inquire of the



gentleman from Warner whether he proposes to class all the small towns under two hundred, and to take away from the legislature the power of authorizing the sending for less.

Mr. Ordway. That is embraced in the amendment. The clause "to take away" should be added to the Constitution somewhere; but the amendment goes to this extent, that it provides for classing all towns with two hundred or under.

Mr. Murray of Canaan. I would inquire of the gentleman from Warner if he has considered the question of how many towns in the state there would have to be classed. I have been through Rockingham county, and find sixteen that would have to be classed.

Mr. Ordway. I would answer the gentleman from Canaan, that I do not think you can get an accurate statement from the *Hand Book* as to the exact number, because that only gives the votes; but my judgment is—I take the check-lists as ratable polls—there will be a much smaller number in Rockingham county. I am taking it from the *Hand Book*;—was it the ratable polls, or votes, that the gentleman from Canaan examined?

Mr. Murray. It is on the 46th page. I have not examined whether it is ratable polls, or voters.

Mr. Bell of Exeter. The polls are given on page 151.

Mr. Ordway. I think you will find, by taking the ratable polls, the number would not be so large; but I am aware there would be quite a number to be classed in Rockingham county.

Mr. Page of Haverhill. While the gentleman has been speaking I have made a little examination, and more than one third of the towns in the state will have to be classed under that amendment.

Mr. Ordway. I simply rise to say that I have not had time, since I came in here, to go through that computation, but if the gentleman's statement that more than one third would have to be classed is correct, I am very much mistaken in going through, as I have been very careful.

Mr. Morse of Portsmouth. I apprehend that this question of how many towns should be classed goes back to the original

idea of what is recognized as a ratable poll. It strikes me if the committee would establish what a ratable poll is, then we should have a basis to go on in regulating the number that we should have for a representative. It strikes me that we cannot do it under the system of the *Hand Book*, or the return of votes, or anything else, until we establish the principle of what is a ratable poll. My old friend Cram, an old farmer of Hampton Falls, is a very observing man. He says that his constituents do not want any reduction in the house. The city of Portsmouth would not, naturally; but, for the sake of the welfare of the state, they are very willing that no man should be reckoned in as a basis of representation unless he is a man that is willing to support the government of the state by paying his poll tax. Now, where ratable polls are made up of every person that lives in town over night within a fortnight before the election,—that is the fraud they complain of, and that is what they want the convention to correct; and if that is done, honestly and squarely, then we shall reduce the house by a large number of members. Then the question of classification is another matter for consideration. We have had from year to year, as the emergencies of one party or the other required, petitions of unclassified towns for representation. That has gone on until it has become a farce;—five or six men, who hardly have lived in a town, have had a representative in this house. That is another complaint that the people make, and they want us to correct that. To correct a few of these inaccuracies and frauds, which have been practised on the people through the emergencies of parties, is what they want this convention to do. They do not want us to disturb the fundamental principles of our Constitution, and the people will not submit to it. I make these remarks now because I think we want, in the first place, to establish the principle of what the basis of representation is to be.

On motion of Mr. Gallinger of Concord, the amendment of the gentleman from Warner was laid aside for the present.

Mr. Scott of Peterborough. I still insist on my suggestion, in order that the committee may make some progress: that is, to pass on these questions in their order. Therefore I hope, before we pass to the second question, that the house will give

an expression as to the first question. I desire to take the amendments from the table in order, and act upon them.

The Chairman. The motion passed the committee that that amendment be laid aside; then we come back to the original proposition, "Shall the number of representatives to the house be diminished by increasing the ratio of representation?"

Mr. Scott. The motion was, to lay the amendment of the gentleman from Warner on the table.

The Chairman. I understand not. It is merely laid aside, and can be called up. The motion was to lay it aside; then we recur to the original proposition.

Mr. Scott. I desire, in some way, to act on the proposition of Mr. Ordway at the present time.

The Chairman. The committee have decided to lay it aside.

Mr. Clark of Manchester. I propose now, that we pass from this first proposition of the gentleman from Peterborough and take up the next, unless there is something further to be said on this; because it would be manifestly unfair to the gentleman from Warner, who offered his amendment to this proposition, to lay his amendment aside and then pass this proposition without it.

Mr. Ordway. I supposed, in offering this amendment, that it would be explained; that it would then be laid aside, and other propositions would be received and laid aside; and that the resolution of the gentleman from Peterborough would be acted upon when the committee had considered all the propositions before them.

And the first proposition of the gentleman from Peterborough was laid aside for the present.

The second proposition of Mr. Scott being before the committee was laid aside for the present, on motion of Mr. Morse of Portsmouth.

Mr. Morse. I apprehend that we shall have great difficulty in arriving at any conclusion in this way. As I said before, we have got to commence to build on a foundation—to know what the representation is based upon; and therefore I move that we

proceed to consider the third proposition of the gentleman from Peterborough, which brings up the question of what the basis of representation shall be.

And the question being stated, the motion prevailed, and the third proposition of the gentleman from Peterborough being before the committee,—

Mr. Wheeler of Dover introduced the following proposition :

The basis of representation shall be upon the ratable polls, to be determined by the number of persons last assessed in the towns and who shall have paid their taxes, and persons who shall have arrived at the age of twenty-one years after the said assessment, and such persons as are naturalized.

Mr. Wheeler. This is a very difficult question, and one in connection with the number of representatives, which has been the great trouble in all constitutional conventions that we have had in this state. I have talked with my constituents considerably about this matter, and I know that they are in favor of having something done. I have talked with members of the convention, and I am satisfied that the sentiment of this convention is that the representation must be upon the basis of ratable polls, and that we must give some definition to the term "ratable polls." I have examined the proposition of the gentleman from Moultonborough [Mr. Mason], and, taking that as in part the basis, I have constructed the proposition just read, and I will read it again. "The basis of representation shall be upon the ratable polls, to be determined by the number of persons last assessed in the towns and who shall have paid their taxes, and persons who shall have arrived at the age of twenty-one years after the said assessment, and such persons as are naturalized." Now, gentlemen, we all have our different theories. That does not answer my mind personally, if I were to fix it as I would like to have it done myself; but we meet here, gentlemen, not for the purpose of carrying out our personal ideas of this matter, because we have about as many views, perhaps, as there are members in this convention,—at least, there are a great many propositions before this convention or committee. We must lay aside all these personal views of

our own, and try to arrive at something which the people will accept. That is the object of making the amendments. And that thing we must do, or our work will come to naught. I have not figured up to see how much this will reduce the number of representatives in the house, but I know it must reduce it very considerably. It has very many advantages. In the first place, it dispenses with the machinery of putting the names of the ratable polls upon the back of the check-lists, and certifying to them;—you have only to turn to your taxes or your assessment of the preceding year, and see who have paid their taxes; and if a man has a right to vote, he should be willing to pay for it by paying his poll tax. It is certain, it is positive, it is a thing about which there can be no mistake; and I submit that it is the most definite and most certain, and will reduce the house to a very proper number, and will answer the purpose, and will meet the approbation of our constituents.

Mr. Murray of Canaan. I do not know as we exactly understand what the proposition is here. I would like to ask the gentleman from Dover it he means by the proposition this: in the first place, that the ratable polls shall be persons twenty-one years of age—persons who have been naturalized and persons who have been taxed.

Mr. Wheeler. I will answer the gentleman. I do not know that I can answer it any better than the proposition itself: "The basis of representation shall be upon the ratable polls." No man, no person, who is not twenty-one years of age, is a ratable poll—that answers the first question. "To be determined by the number of persons last assessed in the towns and who shall have paid their taxes, and persons who shall have arrived at the age of twenty-one years after the said assessment,"—that is to say, if the tax was assessed in 1876, in March, or at such time as it may be found convenient to do that work, and the election should be in November, you would take the persons assessed in March and who have paid their taxes by the first of November, or by the time of election, and all persons who shall have arrived at the age of twenty-one after that assessment was made and up to the time of election, whose right to vote has accrued to them after the assessment, and



excluding persons not naturalized—that is, all persons who are naturalized to be counted in.

Mr. Stickney of Exeter. I would inquire of the gentleman from Dover whether, according to his proposition, people who are over seventy years of age would be considered ratable polls.

Mr. Wheeler. I understand, and I think I am right about it, but there are a great many selectmen here who do this business and know about it,—I understand that persons over seventy years of age are not taxed for a poll-tax; and if not taxed, they should not be reckoned in the count for representation. Do I answer the gentleman?

Mr. Quarles of Ossipee. Suppose that the tax is assessed illegally. As I understand the resolution, it is only our ratable polls who have been assessed and have paid the tax. Now, then, suppose the selectmen of a town should have made an illegal tax, consequently the inhabitants of that town are not bound to pay that tax, therefore would you disfranchise them? I think not, gentlemen. I think the provision should be something like this: That the ratable poll, so far as the taxation was concerned, should be one who had paid his poll-tax, or the poll-tax against him legally assessed, and not all the tax, but who shall have paid the poll-tax legally assessed against him; because, if it is not legal he would not want to pay.

Mr. Fowler of Pembroke. I do not see how a man, unless all of his tax is paid, can be said to have paid his poll-tax. The poll-tax is assessed with the other tax, and a man must pay all his tax before the day of election, or else the selectmen cannot tell whether he has paid his poll-tax or not. A man is not taxed for a poll-tax separately, consequently he must pay all.

Mr. Wheeler. In answer to the gentleman: I do not wish to keep the floor all the time, but I understand that is a very good clause,—helping the collector to collect his taxes; and every man who wants to come to the polls and vote should have made a clean thing of it, and paid all his taxes. That is the way the thing strikes me. There is one thing I omitted to



say, and if the committee will pardon me I will say it,—that is, this should be borne in mind, this resolution in no way affects the right of any man to vote: it is simply whether he shall be counted in making up the number of representatives that the town shall have. It does not disfranchise anybody, but only determines who shall be counted for the purpose of making up the number of representatives to which the town or ward should be entitled.

Mr. Fowler of Pembroke. I would like to ask whether the gentleman intended to include or exclude persons over seventy?

Mr. Benton of Lancaster. Persons over seventy years of age are not taxed for polls; therefore they are not included.

Mr. Burrows of Plymouth moved his proposition as an amendment to the proposition of the gentleman from Dover.

On motion of Mr. Spring of Lebanon, ordered that the committee of the whole rise, report progress, and ask leave to sit again.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Davis of Amherst, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the general court, without determination, and asked leave to sit again.

On motion of Mr. Burrows of Plymouth, the convention adjourned.

---

#### MONDAY, DECEMBER 11, 1876.

The convention met according to adjournment.

(The president in the chair.)

Prayer was offered by the chaplain.

The journal was read and approved.

Mr. Bruce of Dover. I read from Saturday's paper of the death of an honored citizen of Dover. I refer to the death of

the Hon. Daniel M. Christie,—a good citizen and true statesman, well known to most of those present, more particularly to those of his own profession and those who have walked with him in the course of life. I know there are others present who can testify better as to his honorable qualities than I can myself. I had known him for thirty years as a gentleman of high integrity of character, well known in all the walks of life, whose voice has been heard within this house, and who was the compeer of those honored sons of New Hampshire whose faces adorn these walls,—men high in the profession. And, out of respect to the honored dead, as we are to close this day with but little before us, I now move an adjournment.

Mr. Wheeler of Dover. As a citizen of Dover, I do not feel that I ought to remain silent on this occasion. A motion of this character in respect to the decease of a private citizen is unusual, but the circumstances of this occasion, I think, will fully justify the proposed action. Mr. Christie died at about eight o'clock on Friday evening, at the ripe age of eighty-six years, one month, and twenty-three days, having been born in 1790, on the fifteenth day of October. He lived to a good old age, and to within one week of his death he was in his usual health. From a member of his family, I learned that he seemed to be impressed on Thanksgiving Day with the near approach of the time when he should pass away. He was taken sick on Friday morning. Sunday he was better, so that he left his room and came down stairs, and was about during the day with his family. He retired at night, and on Monday morning was not as well; lingered until Friday evening, about eight o'clock, and expired, as it might be said, by simply stopping breathing—no struggle, no effort; in fact, his breath was gone before it was fully realized. Mr. Christie was a very laborious man in his profession. His industry was one of his particular characteristics. He always made long and diligent days. He was a man of very prudent and frugal habits, and thereby laid aside what we might say would be a large fortune in any sphere in life—certainly in the practise of the law in New Hampshire. He was always a man who was kind to his family; always with his family when not engaged in his professional duties; not particularly marked for his social qualities,

although kind and gentle. He certainly had arrived at a position in his profession which has been surpassed, probably, by no man in New Hampshire. I think I may well and truly say, that a great and good man has passed away. I second the gentleman's motion.

And upon the question being stated, the motion prevailed, and the convention adjourned.

---

TUESDAY, DECEMBER 12, 1876.

The convention met according to adjournment.

(The president in the chair.)

Prayer was offered by the chaplain.

The journal was read and approved.

On motion of Mr. Murray of Canaan, the following resolution was adopted,—a modification of the same, moved by Mr. Fisher of Walpole, having been accepted by Mr. Murray :

*Resolved*, That the secretary of state be requested to furnish to this convention a printed tabulated statement of the population, ratable polls, legal voters, and number of votes cast for governor at the last election.

Mr. Ramsdell of Nashua moved that, at the usual time of adjournment this afternoon, the convention take a recess to some convenient hour in the evening.

Mr. Ramsdell. It seems to be agreed upon on all hands that the business of this convention should be brought to a close this week, if possible. It seems also to be agreed, that, in order to have the business of the convention well in hand, so that the committees may have some opportunity at the close of the week to work, it is necessary to have one or more evening sessions. I am informed by the sergeant-at-arms that he apprehends that, by means of an additional stove which he is about to have put in, we shall be comfortable during the latter part of the day, if we are not this morning. I trust the motion will prevail.

Upon the question being stated, the motion was adopted.

The following resolution, introduced by Mr. Eastman of Hampstead, was rejected :

*Resolved*, That no proposition for amending the Constitution of this state shall be submitted to the people for their acceptance, unless it receives two thirds of the votes of this convention.

The following resolution, introduced by Mr. Mason of Moultonborough, was ordered to lie on the table until that part of the Constitution to which it relates is before the convention :

*Resolved*, That the Constitution should be so amended as that the judges of probate, registers of probate, sheriffs, and county judges or commissioners, shall be chosen by a plurality of votes in the several counties, and shall hold their offices for three years.

Mr. Fowler of Pembroke introduced the following resolution, which was ordered to lie on the table until the appropriate part of the Constitution was before the convention :

*Resolved*, That it is expedient that the Constitution be so amended as to provide for a division by the legislature of the state into thirty senatorial districts, as nearly equal in population as may be without dividing towns or cities, each district to elect one senator and six representatives to the general court.

Mr. Benton of Lancaster introduced the following questions for the consideration of the convention, which was ordered to lie on the table until the appropriate part of the Constitution was before the convention—to wit :

Is it expedient to reduce the house of representatives to not less than 150 nor more than 200 members?

Is it expedient to elect the members of the house by district?

Mr. Sargent of Concord moved that the convention resolve itself into committee of the whole, on so much of Part Second of the Constitution as relates to the executive department.

Mr. Sargent. My reason for this motion is this : The most important point—the point which is evidently to take most of our time and attention, and upon which there may be the most to be said—is this matter of representation in the house and

senate. Now, we have just ordered a certain document from the secretary of state, to be printed, which bears directly upon that point—more directly than upon any other—and until we get those statements, it seems to me that we cannot proceed to act with so good an understanding of the subject as we can if we wait until we get them; and we can just as well proceed to the other part of the business, and take up various other questions connected with the Constitution, and let this matter of representation lie until we get the documents. There may be various other resolutions introduced in regard to that matter. When we get the propositions all before us, and the facts pertaining thereto, we can act more understandingly.

Upon the question being stated, the motion was adopted.

IN COMMITTEE OF THE WHOLE.

(Mr. Burns of Lancaster in the chair.)

The clerk having read so much of Part Second of the Constitution as relates to the executive department,

On motion of Mr. Spring of Lebanon, the following resolution was adopted:

*Resolved*, That the last nine words of Article 42 be stricken out, to wit, “and unless he shall be of the Protestant religion.”

Mr. Page of Haverhill moved to amend Article 42 by striking out the word “majority” wherever it occurs, and inserting the word “plurality.”

Mr. Clark of Manchester. This is simply a question of having a majority or plurality elect, and I hope the committee will proceed to act thereon without any unnecessary delay.

Mr. Eastman of Farmington. It occurs to me that we are safer in this state by standing on majorities than on pluralities. I refer to the experience of every man in this house in regard to this matter. I point to the experience of this state and this country in regard to this matter. Are we not safer—is the government not safer—in standing on majorities than on pluralities? I beg of the committee to think seriously of this matter before they vote thereon.



And the question being stated, a division was called for; and 47 gentlemen having voted in the affirmative and 133 in the negative, the amendment was declared rejected.

Whereupon Mr. Page raised the point of order that there was no quorum voting.

The point of order being sustained, and a quorum being manifestly present,

The question was stated again, and 41 gentlemen having voted in the affirmative and 177 in the negative, the negative prevailed, and the amendment was rejected.

Mr. Wheeler of Dover moved the following amendment to Article 42:

Strike out the word "annually" wherever it occurs, and insert the word "biennially."

Mr. McDuffy of Rochester. I hope the amendment will not be adopted. I am aware that this committee has voted, by a large majority, in favor of biennial sessions; but the people, in response to the action of the convention of 1850, voted five to one against biennial sessions. The people of this state look as favorably on frequent sessions of the legislature as they do upon the right of trial by jury, and I hope this state will adhere to frequent sessions of the legislature. I believe that no state has a more economical government than the state of New Hampshire, and I believe this is so because of our frequent sessions. If we establish a system of biennial sessions, the tendency will be to prolong them until the new system will be very much more expensive than the old one. This system of biennial elections and sessions will open the door to a great many evils, and all the objections to annual elections and sessions will vanish into thin air beside the objections that can be raised to having sessions every two years.

Mr. Ordway of Warner. It seems to me, that, while the gentleman who was last up has made a very good argument in favor of restricting the amount of pay of a corporation as well as the officers of the state, he omits to state a very important fact: that the people of this state, at the present time, are sur-



feited with elections; that they are worn out, exhausted, and tired of elections; that hardly one annual election is over with, before, in most close town, they have to commence the campaign for the next; and when there are two elections, as occurred in the present year, it occupies all the time. Now it seems to me, if the same amount of labor and expenditure of money was put into some charitable fund every other year, that a very large fund would accumulate by having biennial elections and biennial sessions. I should not want any larger fund for the support of the poor of this state, than to have the fund that would accrue to a charitable body by this change of elections to every other year. I sincerely hope that, whatever else we do, we shall have one year of peace, when neighbors can look into each others' faces, and feel that they do not know whether they are republicans or democrats. I believe, as a measure of peace and good followship, the amendment should prevail.

Mr. Slayton of Manchester. I wish to say a few words on this subject. I will say this: I had no doubt but that the gentleman from Warner would favor biennial elections in this state. But let him look into the next line but one, and amend that. If he struck out the word "March" and inserted "November," we should have but one. I hope that the amendment will not prevail. I am against a biennial election, and I hope the motion will not prevail. So far as I can hear, the people are all desirous of retaining the annual election.

Mr. Eastman of Farmington. I believe that the people in my section are all in favor of the measure—they are in favor of a biennial election. We are tired of annual elections. We are tired of this incessant warfare, and we should be glad to have a state of peace for a space of time, and all I can say of this matter is, let us have our election once in two years. My voice is for peace.

And the question being stated, the amendment was adopted.

Mr. Putnam of Warren moved the following amendment to Article 42:

Strike out the word "March" wherever it occurs, and insert the word "November."

Mr. McDuffy of Rochester. Mr. President, I hope that this amendment will not be adopted, for these reasons: It looks to me, in the first place, like imitating other states. I do not like to be an imitator, or to look like an imitator; I would like, rather, that the state of New Hampshire should stand as fixed, alone, in the time of her elections, than to be lost in the crowd of November elections. And it seems to me that the people are habituated to the present system. A change sometimes breaks the habits of a whole life. In time we become accustomed to habits that may be injurious, or bad, but we do not like to have them changed, even if bad. This may be a bad habit—the present time of holding our election. And, lastly, I am opposed to this amendment because I do not believe it is at all essential, and I believe the work of this convention should be limited to those changes which are essential, and demanded by the people. I do not believe there is a person in the state of New Hampshire that will vote against the action of this convention, simply because it neglects to change the time of the elections from March to November; whereas, I believe that the whole work of this convention will be of no use, and many people will be induced to vote against it, if the time of elections is changed to November.

Mr. Slayton of Manchester. One of the chief reasons we do want our elections in November is, we cease to have a representative in congress March 4, and our state is without representation in the lower house until the second Tuesday of March,—the time of election as at present provided.

Mr. Fisher of Walpole. There is one thing I wish to say, and that is this—you can call it an argument in favor of or against a November election; I have nothing to say on that ground: If you have your election in the fall for state officers, you must have another in the spring for doing your town business; we have got to have it every year, therefore we have two town-meetings. I would say, in the states where it has been tried it takes away the interest in both of them, so that the attendance is generally very small. I do not know what bearing this may have in your minds; I will not attempt to say; I merely speak of this to intimate what the effect may be in New Hampshire.

Mr. Putnam of Warren. I think the suggestion of the gentleman who has just taken his seat is a very strong argument why we ought to make this amendment. I believe that the people in a town should hold their election at a different time of the year than the one when they elect their state officers. We all know, especially those who have resided in towns where the elections are particularly close, that it is almost impossible to select the best men to take care of the town interests. Now I am in favor of this amendment to the Constitution, for this reason: that we shall thus have a separate mode, if we should provide for one, where we can transact business in a quiet way, without having this excitement, this constant stirring up of the people of New Hampshire. It is not, perhaps, a matter of complaint in the town where I reside, because, as you are aware, it is a strong town, and both political parties, as you may know, have been represented on our board of town officers, and we have been able to place the best men in office; but in towns that are politically close it is utterly impossible to obtain the best men for offices of political trust. I am in favor for another reason, another consideration: it is utterly impossible to bring men out at that time, especially if we have a snow-storm just about that period. Why, only a few years ago, the vote of one town in New Hampshire was cut down one third on account of a snow-storm a few days previous. And I am also in favor of this change in the time of elections from March to November, because I think that the people of New Hampshire are in favor of this amendment. I think that the convention ought to submit to the people the amendment which I have proposed.

And upon the question being stated, the amendment was adopted.

Mr. Gallinger of Concord moved to strike out the word "June" in the sixth line of Article 42, and insert the word "January."

Mr. Gallinger. I will detain the committee but one moment in the advocacy of the proposed amendment. I am not strenuous, however. I will say to the committee that this change should be made to January instead of June. It is a self-evident fact that cannot possibly be controverted, if we have

our election in November, as we have just voted to do, we must have our meeting of the legislature at some other time than June. It is possible February is a better month. My own preference is January. I do not know that it is necessary on this occasion to offer a single argument in favor of this change. The change is demanded. We cannot have our election in November and have our legislature in June. [A voice—"Why not?"] I think it is too far off. But, Mr. Chairman, if it is necessary to enter into an argument against the holding of our legislature in June, I am prepared to appeal to every gentleman who has ever been compelled to sit in this hall during the last of the legislative session. Why, upon other and higher grounds the change is desirable. I think that any gentleman who has occupied a seat in this house during the latter part of June, and found that every measure submitted to the house, however important it may have been, could not possibly be debated for five minutes without a tumult which the speaker was unable to control,—I think that every gentleman who has had to present a motion during that period would say that some other time is preferable. And we are aware, I suppose, that three fourths of those that come here to represent their constituents have their hay at home, and are determined to return home and save their crops, which is proper; but they cannot do it and have every subject properly acted upon; and every gentleman who has had experience in this house will admit it. And I tell you, gentlemen, that some of the crudest laws that have gone out of this house for the past few years, have gone out for the reason that no man was ready at that time to offer a word against the measure in the last few hours of the session. That is the reason, in my mind, why these measures have passed. There are other reasons. I do believe that our elections occurring in November, the meeting of our legislature ought not to be so far off as the month of June. On that I may be mistaken. It is my own opinion; and I trust that the change may be made for the month of December, January, or February. For that reason, I offer the proposed amendment.

Mr. Wheeler of Dover. I am about to move an amendment, that the words "second Wednesday in May" be substituted; but I do not imagine that this will wholly obviate the difficulty

which the gentleman speaks of as attending the last part of the session. It will be a very convenient, comfortable, and pleasant time, it seems to me, for everybody to attend: it will give abundant time to close the business of the house, so that our farmers can go home in season to attend to their haying. I make this motion because I heard several gentlemen, the other day, when we were approaching the question, express a preference for that time, and I have heard several since.

Mr. Wheeler moved to amend the amendment, by striking out the word "January," and inserting the words "the second Wednesday of May."

Mr. Barton of Newport. I suppose that we propose to make this change in the time of holding the elections from March to November, and I am in favor of voting for the time suggested by the gentleman from Concord [Mr. Gallinger] for the assembling of the legislature. I have thought the matter over some. I thought the first of December would be a fine time, and then it occurred to me that the holidays would come in, and the session would be broken in that manner. Then I went to the next month. I want to get the time of the session pretty near the time of election, because, if we do not, there will be time for political corruption and bribery, and we want to get a legislature that is free from the influence of political corruption. Another reason for January: I have been in this house when I have been in a perfect state of perspiration on account of the heat. I have been here when the blood came to my head so that I have had to sit down. But no matter for that. I thought it would be a good time to commence in January, in the beginning of the year, when we are forming good resolutions. We do not carry them out always, but they do us good at the time; and I think it would be a good time to commence the session. And then, again, I am against commencing the session in May, because we are then just getting out of our winter quarters, like the bears from their dens; and the brain is not worth half as much at such a time, when we have just got out of our winter quarters, and when we want to go on to the farm. Another one will say it is a good idea that you have advanced; "we don't want long sessions." Any



thing we want to do, we want to do well. The legislator requires brains. The best is what we want. The people in May, as I have said, want to go on to the farms. In June it is worse still. I believe we ought to have the session in January, because it is not too cold, and not because it is too hot. I am for the January session, and the reason I stated here; and it is because I want the meeting to be pretty near the election. If that is to be in November, then we certainly ought to meet in January.

Mr. Cram of Hampton. I have an objection to the amendment of the gentleman from Dover, because in May I want to be at home to see to putting in my seed myself. In June I can trust the boys to do the hoeing.

Mr. Hastings of Monroe. The spring is the season of the year for agriculture, and this body is composed chiefly of members of the agricultural class. "Seed-time and harvest" is what they must look after. May is the time that they wish to put their seed in, and, as the gentleman just said, most farmers wish to have their eye upon that business; and gathering the harvest is before December or January. To have a legislature assemble at a time convenient for the farmers, you need to have it in December or January; it is immaterial which month: I prefer January. The farmers are the great mass of the inhabitants—that is, territorially—of the state, and the house would be chiefly represented by the farmers. It would be much better—more convenient and satisfactory in every respect—to assemble in winter.

And the question being stated, the amendment to the amendment was rejected.

The question upon the amendment recurring was declared rejected.

Whereupon a division was called for.

Mr. Sawtell of Lyme. I have a word to say, sir, upon this matter; but the vote has been taken.

The Chairman. A division has been called for; the remarks of the gentleman are in order.

Mr. Sawtell. I have only to say, sir, to the convention,

that, in my judgment, we had best let it remain as it is. I am quite of the opinion that inconveniences do occur to the farmers; I am quite of the opinion that other inconveniences might occur;—but, taking everything into consideration, I am of the opinion that we had better let it remain as it is. Some objection has been made to the excessive heat—that it can hardly be endured during the month of June. Why, I think, sir, that is but a poor argument. I saw men voluntarily sit here last June during the entire night—the hottest night of the season—and come out all right in the morning; and I therefore see no objection to the time. It seems to be thought that that is the time of putting in the crop, as the gentleman has suggested. It is just the hoeing time, and not the seed time, as has been suggested.

Mr. Clark of Manchester. I have a suggestion or two to make to this committee, growing out of my own experience, which are contrary to some of the suggestions made here, especially those of the gentlemen from Concord [Mr. Gallinger] and Newport [Mr. Barton]. The people of New Hampshire are economical: they are obliged to be economical by their circumstances—though I am rejoiced to say the people of New Hampshire are advancing in their prosperity nearly as much as any other section of the country, unless it be the far West. Now, I have no doubt that the fact that the legislature meets in June has saved us thousands and thousands of dollars; and now shall we change the time and fix it in November—a time when there will be abundance of leisure for people to stay here from week to week and month to month, putting the people to great expense? In regard to the statement made by the gentleman from Concord [Mr. Gallinger], that we are in so much haste in June, and have not time to make such good legislation as is demanded, I will say it here, that there is no state in the Union that has a legislature better adapted to the people than the state of New Hampshire. I have one other remark, suggested by what fell from the gentleman from Newport [Mr. Barton], in regard to the opportunity for corruption if we make the election in November and go over to June with the legislature: I have been a number of times a member of the legislature of this state, and I will undertake to say I never saw a body of men more honest than they, and one in which I was more fearless of corruption. The

corruption is not here ; it has been outside ;—and I have no fear that, if we have the election in November, and go over to June for the session of the legislature, but what the electors will come here as pure as they would come the next day after election.

Mr. Hastings of Monroe. I agree in the opinion of the gentleman just up. He says that the legislation of this state has been conducted properly, honorably, by honest, upright, intelligent men, and it has given perfect satisfaction. Now I would ask all of you, if you change the time from the second Wednesday in June to the second Wednesday in January. if it will be more convenient? if it will corrupt these men and make them dishonest by changing the time? Cannot they be as honest in January as in June? I think they can, because, in one respect, it is more convenient for them, and if they still have any inducement to be corrupt, they certainly will be no more dishonest in January than in June. I have no doubt that they will be just as incorruptible in January as in June ; but if you meet in January, won't you do as they do in Massachusetts—sit till June? And won't you be obliged to do as they do,—to say that no member shall have any more than a certain sum, and if they stay here afterward they should bear their own expenses? I would make a provision, that if they stayed here any more than a certain time, they should pay back into the treasury what they have already drawn, and go home. [Laughter and applause.]

Mr. Barton of Newport. I wish to make one remark : When, in the half-serious and half-not-serious way, I spoke about the chances of corruption between the election and the session, it was more in sport than anything else. But I would ask the worthy president, when he speaks of the wisdom of the framers of the government in putting it in June, if they did not manifest their wisdom by making the election in March equally as well. Then if we change one from March to November, we assume to know something—that our brain has taught us something ; and if we break off from one thing our wise fathers did, why not break off from another? Now my argument is based upon the fact that we have changed our election to November ;—that being done, I ask the committee if it would not be wise to

make the time between the election and the holding of the legislature about the same as our worthy fathers put it. Then, again, I think that the worthy president undertakes to say that we should follow in the footsteps of our neighboring state of Massachusetts, and sit all winter. That is a worse corruption than I stated, when I said that the time from November to June was so long it would leave the members open to corruption. What is it but impugning their honesty, to say that they would come here and stay all winter, simply because they had the right to stay? Now, from what I know, I believe that if the legislature meet here in January, they would be just as vigilant, active, and prompt, and stay here no longer during the dreary months of winter than was actually necessary to accomplish the work they had to do. Now, I have said this because I thought I saw a loop-hole in the gentleman's argument, and I wished to present it to the house, and I have done so.

Mr. Slayton of Manchester. I wish to say a word upon this question, because I am in favor of changing the time of the meeting of the legislature to January. I believe that the people of this state will not vote to substitute November for March unless the convention also submit the proposition of substituting the word "January" for "June." And now, gentlemen, there is a very grave crisis arising in this country. If an extra session of congress is called this winter, our state will be unrepresented from the fourth day of March until representatives are elected; and this is likely to occur biennially. That is a reason why I should like to see an amendment passed substituting January for June, so this state may be represented in congress when a crisis like the present occurs.

Mr. Sinclair of Bethlehem. If there is anything in the argument that has been advanced for changing the time, it would seem to be this, that the month of June is so inconvenient that members of the legislature cannot well come here, and that when they once come here they cannot stay long enough. Now, sir, the answer, it seems to me, to the first proposition, stands in the fact that the committee has already almost unanimously voted to reduce the number of members. I understand, in reference to members coming here, that they manage to get here

somehow. There are a great many members of this convention who have managed to get here as members of the house. In regard to the legislature,—I have been a member of this house for a great many sessions, and I have heard a great deal of fault found, in one way or another, as to the action of members; but I have never heard any complaint made by the people that the sessions were not long enough. And I do not believe there is anything in that, and I hope there will be no change as to the time of the session, unless a hotter month can be found than June.

Mr. Whipple of Laconia. I have listened with a great deal of attention to this discussion, and I have come to one conclusion, that we have a cause of gratitude to the over-ruling Providence for broiling the preceding legislatures out of these quarters. It seems to me that, instead of our legislature ever adjourning because their business is done, a beneficent Providence sends down burning streams of broiling caloric, and sends them home on the streams of their own perspiration. If it turns out to be true that this legislature ever has voluntarily adjourned, I certainly shall go towards trusting them with the question of their adjournment in January.

Mr. Ordway of Warner. I am aware that sarcasm and ridicule are oftentimes more powerful than argument; but I am opposed to the month of June for the very reason that the two last gentlemen have given. I remember that last June, on more than one and perhaps more than five occasions, it was impossible to get a quorum. I do not know whether it was on account of the heat, or what it was, but if the house has to sit without a quorum in June, I apprehend it might find a quorum in January. The question comes right home to us, Can we, by biennial sessions, and cutting down the house, and having the legislature meet in January, and following the example of Massachusetts as the gentleman from Manchester has suggested,—give a salary to the members of the house,—decrease expenses? I can say one thing, and that is, if we do that, I believe the people of New Hampshire will ratify what we do. If they can let us do that—fix a salary of one hundred dollars for the session—we shall secure the approval of the people; and I understand it does not make any difference in Massachusetts whether the



session continues ten days or one hundred days,—they get the same pay in that legislature. In this state last year the legislature sat longer than they have sat for years, and the expense was larger. Now if that practice is to be followed, and the people are willing to give up farming and business, and stay all through the month of July, I do not believe they would be more willing to stay through the months of January and February than in the months of June and July, because in February it would be inconvenient. It is a question of right, not precedent; and if it would be better, and this convention adopt it after due deliberation, I have no doubt that the people would ratify this amendment.

And the question being stated, 98 gentlemen voted in the affirmative and 171 in the negative, and the negative prevailed and the amendment was rejected.

Mr. Ramsdell of Nashua moved to amend Article 60 by striking out the word “annually” wherever it occurs, and inserting the word “biennially.”

Mr. Wheeler of Dover. At the request of a gentleman who is absent to-day, and not of my own motion especially, I move in amendment of the gentleman’s motion that the whole subject of the council, including Articles 60 to 66 inclusive, be stricken out,—that is, I move that Articles 60, 61, 62, 63, 64, and 65 be stricken out. The committee will please understand that it is not my purpose to include Article 66; I will let that—Article 66—pass. First, strike out Articles 60, 61, 62, 63, 64, and 65, and then amendments can be made if found necessary.

Mr. Clark of Manchester. Please state it so as to make it a distinct motion. The motion the gentleman makes is not a proper motion to make as an amendment to the motion of the gentleman from Nashua, because it involves the striking out of a very much larger portion of the Constitution. He should make it as a distinct motion, and that should be determined first.

Mr. Ramsdell. For the purpose of having this matter put squarely before the committee, so that the committee may take

action and express the opinion of the convention, I will withdraw my motion to amend Article 60.

Mr. Sargent of Concord. I hope this motion will not prevail.

And upon the question being stated, the motion of the gentleman from Dover was rejected.

Whereupon Mr. Ramsdell renewed his motion to amend Article 60 by striking out the word "annually" wherever it occurs, and inserting the word "biennially."

And the same was adopted.

The following amendment, introduced by Mr. Slayton of Manchester, was adopted :

Amend Article 60 by striking out the word "March" wherever it occurs, and inserting the word "November."

The following amendment, introduced by Mr. Smith of Peterborough, was adopted :

Amend Article 66 by striking out "annually," and inserting "biennially."

Mr. Perkins of Unity introduced the following :

That Article 71 be so amended that the office of register of deeds be abolished, and the duties be imposed upon the town-clerks of the several towns.

And the same was rejected.

The following amendment, introduced by Mr. Page of Haverhill, was declared adopted :

Amend Article 71, by inserting after the word "treasurers" in the first line, the words "judges and registers of probate, solicitors, sheriffs."

Whereupon Mr. Poor of Derry called for a division.

Mr. Page. Before a division vote is taken, I would like to say that this question ought to be submitted to the people, because a great many of the people of the state desire an opportunity to vote upon it. I do not express my own opinion, merely. If there is a

respectable number of people of the state who desire an opportunity to vote upon it, our action should not be final. I think we should give them an opportunity to say whether the governor and council shall elect these officers, or whether they shall be elected by the people themselves.

Mr. Ramsdell of Nashua. These questions are coming upon us so fast, Mr. Chairman, that we hardly have an opportunity to consider them carefully. I oftentimes differ with my friend from Haverhill, but I am exceedingly happy that he has made this particular motion. If there is anything that has occurred in New Hampshire within a century which is disgraceful to all political parties, it is this wholesale removing from office those men eminently qualified to fill official positions. Why, in the county of Hillsborough, the democratic party two years ago removed a man from the office of judge of probate,—one who was thoroughly qualified for the position,—not for any other reason than a political one—simply on political grounds; and last summer the republican party removed a man from the office of judge,—one who seemed almost to be created for the place, filling that office creditably to the state of New Hampshire. Now here is a golden opportunity to rid ourselves of the apparent necessity occasionally of stultifying ourselves as men and citizens if we happen to be members of the legislature, and the necessities of all parties seem to call upon us to condemn the removal of good men from office. I do hope that the committee will consider this matter carefully, so that we will leave the legislation of the state in a better condition than we have found it. I hope that the committee will either consider the motion favorably, or put it over so that we may consider it hereafter.

Mr. Sawtell of Lyme. This seems to meet my purposes quite as well. I was about to suggest that no official should be removed for political opinion. I fully concur with the gentleman who has just spoken. I heartily concur in all his remarks, and should be happy to see this amendment pass. Perhaps it would be better than the one I have already prepared.

Mr. Putnam of Warren. It is very seldom that I disagree

with my friend from Nashua, and this is one of the occasions when I take pleasure in endorsing every word he has uttered. I agree fully with his remarks and with the gentleman from Lyme, and I believe the amendment ought to be adopted, and, if adopted, I have no doubt it will be thoroughly ratified by the people.

Mr. McDuffy of Rochester. It seems to me that some changes for the better ought to be gained by this amendment. I do not believe that the framers of our Constitution ever contemplated the wholesale removal of officials by the legislature, which we have witnessed on the part of both political parties. It seems to me that the fair-minded and impartial men of the different political parties must have felt grieved to see to what an extent it has been carried. I believe that this is one of the dangers that threaten our government,—not only our national government, but our state government. There is a loud call by the people for civil service reform, and I believe we need it in this state as well as in the national government. There is no better time or place to secure it than the present time and place, but I hardly dare to expect that any such thing as this will be done. It seems to me a good deal like pulling down a house to kill the rats. I would suggest that, if this is to pass, that there should be an amendment at the end of the article to this effect: "That no person shall be removed from office for partisan reasons."

And upon the question being stated, 212 gentlemen voted in the affirmative and 24 in the negative, and the affirmative prevailed and the amendment was adopted.

Mr. Ordway of Warner introduced the following amendment :

Amend Article 67 by inserting after the word "treasurer" the words "shall be elected by the inhabitants of the several towns in this state." Also, insert the word "the" after "and" and before the words "commissary-general."

Mr. Benton of Lancaster. It seems to me that by this proposition you allow everybody to vote—men, women, and children. If we are going to that extreme, I think we had better legislate on suffrage to everybody.

Mr. Ordway. If the gentleman will allow me, I will state that I use the same phraseology, or rather language, that has been used here in the article.

A Delegate. I should like the gentleman's reasons for pressing the amendment.

Mr. Ordway. I simply made the motion to strike out this clause, because it has become the practice among most of the states to elect those officials by the people. I do not know why the people of this state are not as competent to elect, upon the general ticket, those officers as they are in any other states. I suppose the practice has become pretty general, perhaps almost universal, to elect those officers by the people; and, as the committee seemed to be in a mood to elect the officers for the benefit of the people, it struck me that we might act upon it. I am not tenacious about it, one way or the other. In answer to the gentleman's question, I may say that I used the same language that has been used in regard to the county officers, though it may not have been correct.

And the question being stated, the amendment was rejected.

On motion of Mr. Clark of Manchester,

*Ordered*, That the committee rise and report progress.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Burns, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the executive department, and had adopted the following amendments:

1. That the last nine words of Article 42 be stricken out, to wit, "and unless he shall be of the Protestant religion."
2. To Article 42—Strike out the word "annually" wherever it occurs, and insert the word "biennially."
3. To Article 42—Strike out the word "March" wherever it occurs, and insert the word "November."
4. To Article 60—By striking out the word "annually" wherever it occurs, and inserting the word "biennially."



5. To Article 60—By striking out the word "March" wherever it occurs, and inserting the word "November."

6. To Article 66—By striking out the word "annually" wherever it occurs, and inserting the word "biennially."

7. To Article 71—By inserting after the word "treasurer" in the first line, the words "judges and registers of probate, solicitors, sheriffs."

On motion of Mr. Page of Haverhill,

*Ordered*, That the secretary of the convention request the state librarian to keep the state library open between the hours of 8 A. M. and 6 P. M., during the sessions of this convention.

On motion of Mr. Thompson of Concord, the convention adjourned.

## AFTERNOON.

The convention met according to adjournment.

On motion of Mr. Sargent of Concord, the several amendments adopted this forenoon in committee of the whole were considered, and were severally adopted by the convention.

*Ordered*, That these several amendments, with that part of the Constitution, relating to the executive department, be referred to the committee on Bill of Rights, executive department, and religious test.

On motion of Mr. Sargent of Concord, the convention resolved itself into committee of the whole on so much of the Constitution as relates to the judicial department, and also the remaining portion of the Constitution to the end thereof.

## IN COMMITTEE OF THE WHOLE.

(Mr. Sargent of Concord in the chair.)

The clerk having read at length so much of the Constitution as relates to the judicial department, and also the remaining portion of the Constitution to the end thereof,

On motion of Mr. Sawtell of Lyme, the following amendment was adopted:

To Article 73—At the end of the article add the following

words, viz., "but in no case shall such removal be for political opinions."

Mr. Burns of Lancaster moved to strike out the whole of Article 77.

Mr. Burns. We have already adopted the amendment establishing tribunals for causes where the sum in dispute is not over \$100, and where the title to real estate is not in dispute. Here the justices have jurisdiction for £4, or \$13.33, and unless we strike this out, parties will still have the right of trial by jury by appeal. I wish this stricken out, to make it conform to the other amendment adopted by the convention.

Mr. Clark of Manchester. It is first in order to amend the article, and make it as good as you can, and then if you cannot make it good enough to satisfy the body, strike it out. A motion to amend being first in order, I move to amend Article 77, by striking out the following words: "so that a trial by jury in the last resort may be had."

Mr. Bell of Exeter. Is there a motion to strike out the right of appeal?

The Chairman. No, only the words after "court," in the last line, "so that a trial by jury in the last resort may be had."

Mr. Walker of Claremont. My impression is, that the people of this state will not give up the right of trial by jury, no matter how small the affair may be in dispute. If members take the same view as I do, they will not vote to strike out the right of trial by jury—a right engrafted in our history and in all our judicial proceedings from the earliest period of our government down to the present time.

Mr. Clark. We have already voted in another part of the Constitution that tribunals shall be established, without a jury, to try causes where the amount does not exceed \$100. Now, we should either take one course or the other: either have tribunals without a jury up to the amount of \$100, or have them in all cases.

Mr. Marston of Exeter. I am requested by some of the members of the committee here to say a word in explanation

of the amendment that has been made, that it may appear plainly what will be the effect of the amendment of the gentleman from Manchester. The constitutional convention is not a legislative body. In the first place, it does not establish judicatories or courts of any sort. The business of the constitutional convention is, first, as I understand it, to establish a form of government; and it can do two things more,—one is, to grant to that government that it has established certain powers, and another is, to restrain it by other articles in the Constitution from exercising other powers. That is all there is to a constitutional convention: it is to grant powers to, and to restrict the exercise of powers by, the legislative bodies. Now, what is attempted to be done here? and what has already been done by the convention in the Bill of Rights? I will refer to it. In the 20th Article of the Bill of Rights, as it stands now in the Constitution, are words as follows: “in all controversies concerning property, and in all suits between two or more persons, except in cases otherwise provided for in the Constitution, or laws made in pursuance thereof by the legislature, the parties shall have the right to trial by jury; but the court shall try the facts as well as the law in cases where the parties agree.” By this clause in the Bill of Rights, in all cases in which it has not otherwise been used and practised, parties have a right to a trial by jury. But there are cases in which it has otherwise been used and practised, and in which it has never been in this state held that the party had, as a matter of right, the right to a trial by jury.

In all admiralty causes, in relation to seamen's wages and other cases, parties would not have a right of trial by jury,—and so in equity causes; and this is the opinion, although the divided opinion, of the judges—they have not been always unanimous on the subject; but the general opinion has been that in equity causes there was no right, under the Constitution, to a trial by jury, of questions of fact that arose in those causes. It is the common practice, as everybody knows, for the court to make up issues out of the facts, where they think it is a proper case for trial by jury, and to send those issues to the jury to determine the facts,—although the court have the power, and in a great many instances they exercise the power, of determining

facts themselves without the intervention of a jury. Now, this article—the 77th Article—that is now under consideration, is in these words: “The general court are empowered to give to justices of the peace jurisdiction in civil causes, when the damages demanded shall not exceed four pounds, and title of real estate is not concerned: but with right of appeal to either party to some other court, so that a trial by jury, in the last resort, may be had.”

That is in conformity with the 20th Article of the Bill of Rights; so that, however small the cause that is tried before a justice of the peace, the party that gets beaten may appeal and go to some other court, and have the right of trial by jury. Now, to make the article conform to what has already been done by the convention in respect to Article 20, it is proposed to strike out these words, “so that a trial by jury, in the last resort, may be had;” and then the article will read thus: “The general court are empowered to give to justices of the peace jurisdiction in civil causes, when the damages demanded shall not exceed four pounds, and title of real estate is not concerned, but with right of appeal to either party to some other court;” because I suppose nobody would want to have his rights left conclusively in the hands of a justice of the peace in New Hampshire, for anybody and everybody can be a justice of the peace by sending his application to the governor, enclosing a dollar to pay for his commission. Now, when this Article 20 was under consideration, I explained to the committee, as well as I could, what I thought was a great grievance in the practice of law and the trial of small causes in this state of New Hampshire; for there are some rights—and gentlemen say that this right of trial by jury is a great and sacred right—and I agree with them in that there are some rights that it costs so much to enforce that they become great wrongs, and are ruinous when the attempt is made to enforce them in this way.

Now, what would be the effect of adopting the amendment now proposed, together with the amendment that has already been adopted? This convention does not say that the parties shall not have the right of trial by jury in every case. They do not say any such thing; all they do is to leave it to the legislature to erect such tribunals as the wisdom of the legislature—

the members coming from the people every year—may devise for the trial of small causes.

A Member. Every two years.

Mr. Marston. Yes, every two years, if we adopt that. It may be that the legislature will not think it wise to erect any tribunals without a jury, or to try anything; or, if they do so, it may be found in practice not to work so well as supposed, and then in another year be abolished. It is all in the hands of the legislature, and they can do what the people want them to do about it; and if they want to establish tribunals to try these little causes at little expense, or hardly any expense, they can have them; if they do not want them, they need not provide for them; and I do not see that there is any danger to anybody's rights at all. Now, suppose the legislature should not do anything; suppose we adopt these amendments, and there is no legislation about it: what would be the effect as the law stands now on our statute-book? Why, last June we passed what is called a referee law, which I think is a pretty good one. It authorized the court to refer any cause pending in court, where a party has not, as a matter of right, a right to trial by jury, to one or more referees. Now, what referees would the court appoint? whom do they appoint? We have had a referee law for three or four years, and there has been a good deal of practice under it. The supreme court held that it did not amount to much because the party had the right to go to a jury, and they held, also, that the report could not go as evidence; so it was of no use to try causes before that board of referees. But what was the practice of the court? Why, it was this, uniformly, so far as I know: The court would say, "Gentlemen, can you agree upon a referee?" The parties consulted, and in nine cases out of ten agreed upon some gentleman that was satisfactory to both: then the party had a tribunal of his own selection—a man in whom he had the utmost confidence—and the court never, in any instance, would appoint a referee if either party seriously objected to it;—the instance has never been known.

Now, then, what next? Why, the referee gives notice that he will hear the cause at such a time. The parties



appear before him with their witnesses. Now, if anything happens,—if there happens to be some witness sick, or some party sick, after the trial begins,—what has been done is not lost; but if that happens where you go to a jury,—you get up there with your cause with the jury, and a witness is taken sick, or a juryman is taken sick, or a party is taken sick, or some misfortune happens so that the trial has to stop,—what has been done is all lost. There is enormous expense to the parties, nothing gained, and all has to be gone over with at another term. But, in case of a referee, there is nothing lost. He adjourns his court until a witness gets well, and then goes on, taking up the case where he left it, and the cause is decided; and the court look it over and see that the record has been right, because he is obliged to report all his rulings on questions of law. He is obliged to report to the court all the facts that he has found; and if the court say that he is right—that his rulings on questions of law have all been right—and there is no occasion to recommit it, no new evidence suggested, or that has been done or can be done, the trial has been fair,—then judgment is rendered, and that is the end. And why should it not be so in these little causes which lumber up our dockets and make the county taxes so enormous that everybody is complaining about it?

Mr. Eastman of Farmington. I own I am very fond of referee courts. I believe they are a source of greatly facilitating the jurisprudence of the state; but I wish to have it recognized in the Constitution that there is such a thing as the right of appeal in small causes. I believe in the right of jury trials; I believe, as a measure of safety to this government—not only to the United States government, but to the government of each state—the right of trial by jury should be recognized. At all times the English-speaking people, from the days of Adam down to the present time, have believed in the right of trial by jury; and I must say I do not believe the people of New Hampshire are willing now to suspend that right, even in small causes. Why, sir, these small causes form a large portion of the litigation in this state, and I do not wish to shut out from the poor man the right of trial by jury. I think the poor man's

court should be respected. I think the justices of the peace should not have a final jurisdiction in any case, and that we should recognize in the Constitution the right of appeal in small cases as well as large cases. Are we going to draw a line here between the rich and poor?

The Chairman. The amendment is not in regard to the right of appeal.

Mr. Eastman. I understood it to be so. At any rate, I hope that right will be preserved.

Mr. Marston of Exeter. The amendment does not prevent trial by jury of these causes. There are a great many causes, small in amount, which no court, little as they are, would ever think of sending to a referee. If it is a proper case, why, send it to a referee, just as they often do; it is always in the discretion of the court, as they often send equity cases.

Mr. Sawtell of Lyme. I believe that the legislature has never seen fit to change the law, but that it has been the uniform custom of the courts to try all cases on their merits before a jury.

Mr. Quarles of Ossipee. If you pass that amendment, the legislature has a right to erect a tribunal; it may establish a court where there is no appeal under this Constitution. As it now stands, the legislature may erect as many tribunals as they please; but as the Constitution now stands, it gives the right of trial by jury in all cases. I do not want to see a single article of the Bill of Rights invaded. I do not want to see any rights of the citizens cut off;—I had rather enlarge than lessen their rights. I have talked with a large number of citizens about this amendment to the 20th Article, and they did not understand it fully, but they understand that this did not cut off the right of trial by jury. If you are satisfied that you have had a fair trial by referee, then you may stop there—that is all well; but if you are not satisfied that you have had a fair trial by a referee, you want to appeal to the jury of your county, that you may have the case decided to your satisfaction. Gentlemen, it is not only important that the case should be decided right, but for the peace, security, contentment, and satisfaction of the people, it is

necessary that every man should believe that he has had a fair trial. They talk about the cost and expense. Don't it cost a good deal to punish the criminals in this state? If a murder trial costs three or four thousand dollars, shall we abolish the trial by jury because it costs so much? You might as well abolish the criminal code, and have a single justice of the peace appointed to decide all the cases in the county? I have said quite enough, perhaps more than enough, but I want to say one word more. Let us look at it: In 1850 the people had not found out that they wanted any but a trial by jury. That right has existed for more than six hundred and fifty years; it was part of our history six hundred and fifty years ago. The people of England demanded of King John this right; and from that time down it has never been denied this people, and I do not think it ever will be.

Mr. Wallace of Rochester. I think it is wise to do away with this jury matter. I could recite to you a little case in illustration of this matter, and I won't be but a minute. Two men had been in business in our town together, and they separated, and each sued the other. They were determined to have a trial by jury about it. I tried to settle it between them, as I always try to settle such matters. One said that he would not have it go to a referee; and the other said he should go to a jury by all means. After a while, they finally said that I might select a referee. Two men took the case in one day, and charged three dollars apiece; and both are grateful to-day that that was done. It was a case involving only about twenty-five dollars. Now I hope that this committee will not back down from the position that they took the other day.

Mr. Mann of Benton. I have never had the great benefit of this trial by jury, and I therefore ask your indulgence of my views. As long as I have lived, I have never had a trial by jury—during fifty-two years—and I hope I never shall have that pleasure. But I know a great number of my neighbors who have had a trial by jury,—and they don't want any more of it; I know of people in the poor-house who have had trial by jury,—and they don't want any more of it; and I also know of people in the asylum, and some in the work-house,—and they

don't want any more of it. But I see one class of people on the floor of this house who desire trial by jury. In certain emergencies, I know that it is desirable to have such a trial, and I think it is right in some cases. I believe that this committee is favorable to trial by jury in certain cases; and I believe the citizens of New Hampshire are prepared to give a verdict upon this question when it is put squarely before them. Therefore, I propose to trouble you no longer.

Mr. Ramsdell of Nashua. I only wish to say one word in addition to the very exhaustive argument in favor of this amendment by the gentleman from Exeter. You understand from the drift of his talk that this committee need not establish the question of the right of trial by jury, but that the legislature under it would have the right to erect such tribunals, or not, for the trial of these causes. If the people of New Hampshire desire a jury of six men, or three, or nine, before a justice of the peace, under the amendment which is now before the committee, they can have it. It would turn out to be one of the most beneficent things for us. The courts have held that at the time the Constitution was adopted the term "jury" meant twelve men; that is, we cannot establish a jury of less than twelve. I hope that the amendment proposed by the gentlemen from Exeter will prevail.

Mr. Sawyer of Weare. There is a matter about this debate that has not been touched on at all. For instance, a man of small means does not dare to go into court, knowing that the person who is opposing him can carry the case on, having the means, and worry him out. I say, representing the poorer class of men, that we have a right to get out of a case according to our means, and not have it prolonged by the richer party. I say that the man who has money shall not have the power to keep a case along in court, and make his opponent spend more than he wants to.

Mr. Quarles of Ossipee. This is a question of right. Now, you talk of lessening the expense. You lessen the expense of your county courts, and you will build up a lot of petty tribunals that the people will learn to despise and condemn; and you will build up a set of old pettifoggers, digging up nasty little

cases, and driving the patience out of your court. That has been recently tried in Vermont; and I am sorry to see the empty chair of my friend who could explain that to you—that is, the gentleman from Haverhill: he understands the workings of that system in Vermont. As I understand him, it has built up a set of pettifoggers around there who have plenty of petty trials, and small courts are kept in constant operation, and the people of the community are kept in a state of irritation; and that will be the result in this state. I wish the gentleman from Haverhill were here to explain it. You will find that the cost to the people will be very great. It has been suggested here that the cause should be tried by neighbors. No such thing. You want some man from another part of the county—one who knows nothing about it, who has heard nothing about it—one who can sit and try it impartially. You do not want your neighbors, who know all about the cases and have heard them talked about, to sit upon them. Such men cannot give an impartial judgment; for we know that we are all so constituted that where there is a story told against a man's character, in spite of ourselves we will be warped and credulous, more or less, in our minds. So much is that the fact, that the legislature of this state has enacted that where there is a case pending, no party, except in open court or in the presence of the other party, shall speak to any judge about any case pending before him—not even to speak of its merits. Then you say the neighbors shall try the causes. They would then have no appeal, no right to go to a jury. I think that we should consider this matter carefully, and if a man desires to have this right, I say that he ought to have it.

Mr. Putnam of Warren. I do not propose, at this stage of the discussion, to engage in it. I rise simply to correct the gentleman who undertakes to say that the change in Vermont, as I understand him, has operated unfavorably by creating a great number of small courts, and set upon the people of the state a great number of pettifoggers. As I understand it, the right of trial by jury is secured, and any individual can bring a suit before a jury. He is entitled to have a trial by a jury of six men, and after that trial he can take an appeal, and have another trial in the county court, and there is no limitation. It



has been said here that we ought not to make this change, and create a great number of petty tribunals. I would like to know where the gentleman learned about these pettifoggers. When men of high integrity, and of good standing, and learned in the law, and entirely disinterested, are authorized to sit on the cases, are they to be characterized as pettifoggers? The jurymen try the cases as well as they can, but do not pretend to be as competent as those men who make the law the business of their lives. I think that the people of this state have a right to throw off the burden that has been imposed upon them by excessive litigation.

Mr. George of Barnstead. Until the selectmen of the state of New Hampshire can better regulate the jury box, I shall go for the amendment.

Mr. Page of Haverhill. It seems that in my absence my name has been called, it being suggested that I might say something about Vermont practice. I live near the state of Vermont. If the people of this state desire protection against unnecessary litigation, they should seek it in different channels, in my humble judgment, from this. This is an unsafe method. It is not lessening but increasing expenses, because the weaker party has to give up to the party who has got more money, and to men who are not qualified oftentimes, to exercise and practise law. That is my notion. I may be entirely mistaken, but my observation is that way. The men who know the most about the case should not try it; if so, we would then be going back to the time of trying by witnesses. Will anybody be dissatisfied with a trial by jury? I say that the course that is proposed here is suicidal.

Mr. Cole of Gilford. We are not going to establish a court in Vermont. The question has been asked almost for ten years past why the general court has not made a law whereby these small cases could be tried in a cheaper manner. I have never, in all my business life of forty years, tried to collect small bills by recourse to law, because if you sued a corporation, or some men who have more money than you, they would carry it up and along, and you would not be able to stand it, or get justice done. As was said, the poor man is to be benefited by this

law whereby these cases can be settled by all parties concerned. I think pretty soon we shall understand it. And about this honorable profession,—I don't know that it is any more honorable than that of a mechanic or farmer, if he wants justice done. We all have the privilege of having justice done, and we should not be compelled to go to any court week after week, and then not get justice done. I know of many cases: of one, involving only \$100, that occupied a session of the court for eight days—a trial that would impose upon our county perhaps a thousand dollars of expense. Let the legislature have the privilege of fixing this equitably, and if men can get a better trial as proposed, why, let them have it. Then the "honorable profession" can come up the next year and repeal it.

Mr. Frink of Greenland. It seems to me that my friend from Haverhill, and, I think, the other gentleman, entirely misconceive the operation of this amendment, if it prevails. They talk about the establishment of inferior tribunals. Now it is true, if this amendment prevails, that it is left open for the legislature, at its future sessions, to establish such tribunals as they may choose. They may establish tribunals for trials by a justice of the peace, or a tribunal for trials by jury, or whatever tribunals they see fit. I think the law as it now stands provides that there shall be not less than twelve on a jury. A right of trial by jury is guaranteed by the Constitution in every tribunal of civil action, either by appeal or original jurisdiction,—by appeal, if the case does not exceed the sum of \$13.33, and by original jurisdiction if it exceeds that sum. Let us see, Mr. Chairman, what will be the mode of procedure if these amendments to the Constitution prevail. An action involving less than \$13.33 would go, as now, before a justice of the peace, and by appeal would go into the supreme court. An action involving a sum between \$13.33 and \$100 would be commenced in the supreme court, just as is done now. Then what would happen to it? By agreement of parties, the case goes into the list of civil cases to be tried. The right of trial by jury would be waived for a trial by the judge, if the supreme court would sit, after the jury is dismissed or before they are summoned in, and try these cases then; and nobody would appeal,

certainly, to a trial of these cases before an impartial, disinterested, intelligent tribunal. Any justice of our supreme court could sit on them, or, if not, can send them to a referee. Now, talk is made about this right of the poor man to trial by jury. Let us see whether it is a right worth preserving to him or not. Let us consider the mode of procedure in cases now, and the mode of procedure that would obtain if these amendments to the Constitution are adopted. The poor man will pay a number of men before the case gets into court. If he is sued for a claim involving \$10, it will go before a justice of the peace. I confess that I have not the highest respect for that tribunal. But he commences his action before a justice of the peace. A judgment is rendered adverse to him. He appeals, and it is taken to the supreme court. It is filed with five, six, or seven hundred other cases. It is continued from term to term at the expense of \$8 or \$10. Then this precious boon of the poor man comes in. It is brought to trial before twelve men, and the twelve men are divided over the question, and they disagree. And then, if I mistake not, I believe it goes to the end of the docket, and after several years more, when he has had the inestimable privilege of paying to gentlemen of my profession eight dollars for each "continuance," it is brought on for trial again, and he gets, perhaps, a verdict of the jury against him, or not, as it may be—it does not matter much which, for it has pretty nearly ruined the man by that time. Then it is transferred by exceptions, and carried to the other court, and continued there for a long while. Very likely the verdict is set aside, and it comes back for trial by jury. And during all this time he has not got out of his legal difficulties: he has only enriched his lawyers. During all this time it has been tried by twelve men, and by the county, with fifteen or sixteen other men paid by the county in attendance, when the learned judge is heartily tired at being engaged in such a small affair;—besides, there are two lawyers wrangling with the sheriff and his appendages; and when he gets through it has cost the county five dollars certainly, or, rather, I mean fifty dollars, good, for every dollar of that small matter of \$10,—and the man gets out of court. Now, this is the privilege that my friends would preserve for the benefit of the poor man. My experience has

been, that litigants do not care much about what tribunal their cases come before, so long as they believe it is an intelligent and impartial one; and they have been led to this conclusion by reason of the chances for impartiality by the referee law. I think that I can state that in Rockingham county more than three fourths of the cases that have been given to referees have been settled upon the basis of the report of the referee. Most parties believe, I think, that when they go to law they have an honest case, and want it tried with the least expense and in the most expeditious and impartial manner. That is all they ask; and I believe that a party is satisfied with the result, whatever it may be, when the case has come before an impartial and honest tribunal. I hope that these amendments will prevail. I do not believe, even if it were for the benefit of the litigant, that it is the right of any person of the community to impose such a burden and task upon the county for the purpose of determining a case for a sum less than \$100. It is not for the benefit of the poor man, and no disinterested or honest lawyer can so advise. I have had men come into my place and consult me about their suits, and I have told them that the case was so small and the trouble so great that I could not afford to attend to the case; for my fees would have to be larger than what they could obtain if it went to trial by the present mode of procedure. I believe that if the amendment prevails, it will open a way by which the poor man can have his rights.

Mr. Page of Haverhill. I desire to state that the experience of parties in other parts of the state is in no sense analogous to that of the parties the gentleman has described.

And the question being stated, the motion to amend was declared carried.

Whereupon a division was called for, and 238 gentlemen voted in the affirmative and 11 in the negative, and the affirmative prevailed, and the amendment was adopted.

Mr. Benton of Lancaster. I wish to say just a word upon this matter. I know, so far as the people in my vicinity are concerned, that they have expressed more anxiety about this question than any other that will come before this convention.

I do not know how it may be in other counties. Now, the proposition is to strike out this article; then how do we limit the jurisdiction of justices of the peace? This article of the Constitution limits the jurisdiction of justices of the peace to four pounds, or thirteen dollars and thirty-three cents. Now I do not know what the experience of other persons may be in regard to trials before justices. I know there are some who are opposed to giving them any jurisdiction in civil cases whatever; some are in favor of increasing that jurisdiction; and I think it is a question that may depend somewhat upon the character of our magistrate. But the question here is, simply, whether you will tie up the hands of the legislature, and give them no power to act in this matter. Now, by striking out this article, as I understand it, it does not affect the question of appeal at all,—does not effect the question of trial by jury; the simple question is, whether we will tie up, by retaining this article, the hands of the legislature in reference to this matter.

Now, if there is any one thing I desire, it is, that the expense of litigation may be limited; it is, to devise some method by which causes can be tried speedily, as that right is guaranteed to us by the Constitution. I care not how we get at it. It may be that the proposition, which has been adopted by this committee, of constituting a certain tribunal, may furnish the desired remedy; it may not. We do not know whether it will be adopted by the people or not. But what harm can there be in leaving this question of the jurisdiction of the magistrate in civil causes to the legislature? As our Constitution now is, they have no power to change that jurisdiction—not to go beyond the limit of \$13.33. Now there are various methods which may be devised, by which, in my opinion, it might be changed. This matter may be arranged through the instrumentality of the justices, so as to aid the people very much in this direction. That is my judgment. However this is, let us open the door; let us give every opportunity to the legislature to furnish some remedy.

Now I believe every one in the state has the right to trial by jury, and I believe that right to be sacred; but what I am opposed to is the abuse of that right. Various instances have been named. I know of an instance in my county that occurred



a few years ago, where the question in litigation involved a small three-foot pine table. The largest verdict the jury ever gave to the plaintiff was one dollar and fifty cents; there were some three or four jury trials; the cost to which the county was subjected was some four or five thousand dollars, and the expenses finally incurred by the plaintiff, which only included the taxable cost, amounted to thirteen hundred dollars. Now I claim this is an abuse of trial by jury, and I claim it would be infinitely better for our people, if in some cases of small causes a verdict were wrongly given, than that this expense should be incurred. I believe that some way can be devised by which justice can be arrived at more speedily, and at less expense. My experience is somewhat different from that of others here, in reference to the Vermont law. There are features of their law, which I dislike and which I think might be omitted, but I wish here to mention one, simply, affecting the county of Essex, which lies just across the river from the county of Coös. It contains about one half the population of Coös county, and they have to-day upon their docket less than one hundred cases—they average less than one hundred; and on our docket in Coös district we have some seven or eight hundred. I mention that as a fact. I believe it is to be accounted for partly on account of their system. Perhaps there is nothing in their system that would be desirable—I don't know how that matter is; but it is my experience that if you or I have a note of twenty-five or fifty dollars against a man, to which there is no possible defence, you bring a suit upon it under our present system, and the result is, if you find the defendant unscrupulous enough to make an affidavit of some defence, you had better give him that note, and as much more with it, than undertake to collect it.

Now, I say that is our experience in our county; and if you get such a cause on the docket, you may calculate it is three years, at least, before you reach it and obtain a judgment. I mention this—I am not particular about the course this committee will pursue, but I know the people in my section will demand something of this kind. If we strike out this article, it will simply leave this matter to the legislature to control, from time to time, as they may think expedient.

Mr. Slayton of Manchester. The gentleman from Haverhill seems to think, that, by the course of litigation in Vermont and the course of litigation in New Hampshire, the judicature of New Hampshire is superior to that of Vermont. I have nothing unkind to say of my native state, nor have I anything unkind to say of my adopted state, but I think that if the gentleman will look back over the judges of Vermont, he will remember a Redfield, a Poland, and a Peck; and when he looks back over the judiciary of Vermont, he will find it equal to that of this state. So much for that matter. I was a trial justice in the state of Vermont for eight years: during that time civil causes were coming to me continually. I remember but two that went up by appeal. I think the gentleman from Ossipee misunderstood me in one matter. It was this: I said that the neighbors would understand the cause better than a magistrate at a distance, and they could decide it better than if taken off to the county court, where the jurors could know nothing about the character of the parties and the witnesses. Some men are always in law, always in litigation, and for the most trivial causes. I hope some way can be found by which the expenses of these small causes can be lessened. I do not think the people of Vermont would do away with the small trials by jury before these trial justices. I do not think it would be impossible for the legislature to change these trials before a justice if the people were not satisfied,—so where is the harm of trying it?

Mr. Marston of Exeter. It seems to me that the object the gentleman from Lancaster [Mr. Burns] desires to attain, could not be attained by striking out the article he proposes. It seems to me that if this is stricken out, then the legislature will have no power to act upon the matter at all. I myself think that it would not be wise for this convention to do anything more than they should deem absolutely necessary for them to do. If we send out a great number of constitutional amendments, so that it will look to the people like a new constitution, so that they will hardly recognize it as the old one under which they had lived so long, it would share the fate of the old amendments of 1850, and be rejected next March by the people. Now always in New Hampshire the justices of the peace have had

jurisdiction of these small matters that amounted to thirteen dollars and thirty-three cents. I have not any more confidence in these justices than anybody else. Sometimes one can be found before whom one would like to bring a matter; but almost every lawyer has his particular justice, before whom he brings all his cases. The cost before a justice of the peace is very small indeed.

And again: we all know how easy it is to get a commission of justice of the peace; we all see how many are appointed. In a word, anybody that wants a commission can get it. By our Constitution, the judge is appointed for life and the justice of the peace for five years. If you strike this article out of the Constitution,—allowing the legislature to appoint justices of the peace, giving them jurisdiction to the amount of thirteen dollars and thirty-three cents,—the legislature would have no power to confer any jurisdiction upon them at all—none whatever. So it strikes me we had better leave it as it is. Now I do not think I should be quite willing to have the legislature elect a trial justice with these powers, and have him try a case with half a dozen jurors sitting around his bars, or on a log—anywhere they could find a place. I do not like that kind of a trial; I do not think it is demanded, either.

By bringing causes in the supreme court, as we have but one, and referring the cause the first term to some man competent to decide it, to whom both parties agree, and the next term have judgment on it—I do not think a cheaper or a better jurisdiction than that can be had.

Mr. Burns of Lancaster. I wish simply to answer a few of the remarks of our friend from Exeter. Now I understand that this Article 77 was incorporated into the Constitution for this very purpose of limiting the jurisdiction of magistrates. In Article 4 there is a provision in the Constitution that “the general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be holden in the name of the state, for the hearing, trying, and determining all manner of crimes, offences, pleas, processes, complaints, actions, causes, matters and things whatsoever, arising or happening within this state, or between or concerning persons inhabiting, or residing, or brought within the same, whether the

same be criminal or civil, or whether the crimes be capital or not capital, and whether the said pleas be real, personal, or mixed, and for the awarding and issuing execution thereon: to which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations for the better discovery of truth in any matter in controversy, or depending before them." Now, by striking out this article, which forbids, prevents, the legislature from passing any law upon this subject, why it is perfectly clear to my mind that the legislature would have authority to erect the tribunal in their own way, having such jurisdiction as they saw fit, or not any. Can there be any doubt about that? I should like to have the gentleman from Exeter explain—referring to the Constitution, to the law that would interfere with this. I believe this is the only state where the jurisdiction of the magistrate is limited to such trifling sums as in this, and you will find nothing in that Constitution that limits it if this amendment is adopted; and as a matter of course, then, the legislature would have the power to regulate the whole matter. Individually, I admire the shrewdness of my friend in bringing up other plans to decide the matter of jury trials. By striking out this article we do not adopt any plan here; we do not prescribe any plan whatever: it leaves it to the legislature. Now, my notion is this, that the mass of the people demand some improvement in this direction; and I am in favor of giving the power to our legislature to make improvements, if any can be devised. It may be necessary from time to time to change the law. It is the only way proposed by which we can determine what, under all circumstances, is the best—that is, to try it. Make some provision, try that, and see how it works. If it works well, keep it; if not, change it. But by tying up the hands of our legislature they are powerless, and we have no remedy.

Mr. Wheeler of Dover. It seems to me that the gentleman from Lancaster, as the Constitution now reads, has exactly what he wants. I beg your attention to the reading of the article. By the Constitution, justices of the peace have no jurisdiction whatever; as it now stands, they have no jurisdiction whatever;—but the legislature may, if they see fit, grant them jurisdiction in a sum not exceeding four pounds. But if

the legislature do not see fit to grant them that jurisdiction, then it is withheld; and they have the power to elect such a tribunal as has been suggested, or any other tribunal which they may see fit, for the trial of these small cases. It is an objection, as has been urged by the gentlemen who have preceded me, that these justices of the peace are not always a tribunal where men can get justice; and I believe that some other tribunal should be created in their place, because, as has been well said, we are often carried before a man who does not understand his duties, who has not the learning and capacity to do justice between the parties, and, what is worse, as was said by a justice in Dover, that "he and an honorable gentleman, whose portrait hangs in this hall, had never lost but one case, and that was where the honorable gentleman suggested to the court perhaps it would be a little too barefaced for the court in that case to give him a verdict." We have a class of men in the profession, and they are too numerous, who are disposed to bring these small matters before men of their own selection,—men who are not impartial, who do not understand the rights of the parties; and if the right of appeal is taken away, and no right of trial by jury is given, these men would suffer much injustice: but, as the Constitution is now, the legislature can attend to that by appointing trial justices, in a county or in a town, so that all men can have an impartial trial. But I rise particularly to call the attention of the committee to the fact that the Constitution gives no powers in the least, but empowers the legislature to give justices power if it sees fit. I think the article is well as it stands, and we ought to be cautious in giving too many changes to the people, because it may be the means of nullifying all that we shall do here.

Mr. Wallace of Rochester. I think the suggestion of the gentleman from Lancaster is right in regard to this matter. Mr. Chairman, I think I would have no objection, instead of passing the motion to strike out the article, to amend the amendment to strike out four pounds, and fix on some sum not to exceed a certain sum. My object is, to give the legislature power—perhaps it would not be advisable to give them any jurisdiction—to give justices of the peace jurisdiction in certain civil cases.



Mr. Clark of Manchester. The mover can amend his own motion.

Whereupon Mr. Burns of Lancaster withdrew his motion to strike out the whole of Article 77, and moved to amend that article by striking out the words "four pounds," and inserting the words "one hundred dollars."

Mr. O'Connor of Manchester. I have one suggestion to offer, sir, in this regard; that is this: We had better let well enough alone. It seems to me, sir, that this article as it now stands, with Judge Clark's amendment, is well enough. There is one great danger, sir, in the labor in which we are engaged, and it is this: I take it that we may do a little too much, and the people will reject our work and set it aside—the good that we may do, with the bad;—that, sir, is what I am afraid of. Even the amendment proposed by the learned gentleman [Judge Clark] is open to this objection, it seems to me,—and for that reason I did not vote for it,—that it was making too sweeping a change. We have all heard a good deal of talk about "the sacred right of trial by jury;" but, sir, I believe the majority—a large majority—of gentlemen on the floor of this house think that it has got to be a tremendous evil on some occasions; and, in a large majority of petty cases, we want protection from this trial by jury. My suggestion would have been something to this effect: that the article stand as it is, with a few words added in this way,—that in all cases the right of trial by jury should be held inviolate. That, sir, would give us the benefit of amending without striking out anything. That is my idea of it.

Mr. Page of Haverill. Let me inquire of some gentleman on the floor who would like litigation made easy,—who would like litigation taught in ten lessons, as French is sometimes taught,—how many courts of litigation we would have in the state here; how many justices of the peace we would have.

Mr. Wheeler of Dover. I hardly think the convention, or the people, are ready for the adoption of a measure of this kind. You are extending the limits, or giving the legislature the power of extending the limits, of the jurisdiction of the justices

of the peace to the sum of one hundred dollars. I hardly think the people are prepared for that. It must operate as a very great hardship upon the poor man. Your opponent, the plaintiff, goes to a lawyer and desires to bring an action; that lawyer may select his own magistrate before whom that case shall be tried;—and we all know that we have too many justices of the peace who are not competent for the discharge of that duty. You have no other recourse but to go before that man for trial. Then, when you have had your trial, if you are a poor man, and he decides it against you—as justices of the peace are very likely to do—then an appeal has to be taken; and what then is to be done? The poor man, under the law as it now stands, must furnish surety for the payment of costs—a hardship imposed upon poor men, which many could not take upon themselves; they would be unable to procure the sureties; and in such a case, the rights of a poor man could be entirely taken away by the incompetency, or want of integrity, or want of learning, on the part of the man who has tried his case. It seems to me, that as the article now stands it is well enough. As the article now stands, the legislature may create a proper tribunal; appoint some man that is learned, that is honest and fair, as a trial justice, in the town where the cause is to be tried; or, they may create a court in the county, which may be the county court; or, they may create two or three magistrates, who may have jurisdiction;—and thus it stands well enough. But the committee now is upon the motion of the gentleman from Lancaster [Mr. Burns], whether justices of the peace—any justice of the peace—in your town, shall have jurisdiction to the amount of one hundred dollars;—and there is not a man here but what would exercise a great choice among the justices in his town. There is not a man here, but, if he looked over the list of the justices of the peace in his town, would see that there are many there with whom he would not risk his rights;—therefore I think we had better leave it where it is, and let the legislature have the management of this matter, and appoint suitable men who shall see that justice and right are done between parties, and not leave it to the ignorance and incompetency of any justice of the peace.

Mr. Bedell of Colebrook. I wish to say that this amendment

is just what the people want: to extend the jurisdiction of justices to one hundred dollars,—that is what they want, and that is what they sent their delegates here for.

Mr. Ramsdell of Nashua. I dislike to take too much time of the committee, but I desire, for a moment, to explain the operation of the amendment offered by the gentleman from Lancaster [Mr. Burns]. Not that I have any personal care whether his amendment is voted up or down, except as I have a desire for the public welfare. Now we will suppose that I live in the town of Lancaster, and have trouble with my friend who so ably represents the town here. He brings an action against me, and claims damages of one hundred dollars; and my friend can select from the justices of Lancaster the man whom he supposes most opposed to me, make a writ out returnable before that man, and I am obliged to appear before him; and, if the legislature takes the action which it may take, under the action proposed I may have no remedy; for, if the legislature say there can be no jury trials when the subject-matter is one hundred dollars or less, then it will follow, legitimately, I suppose, that the action of this justice of the peace in the town of Lancaster would close all my right. Well, of course that would be conclusive, and I could not help myself. I hope the committee will consider this a moment before they consent to give a justice of the peace conclusive jurisdiction in matters of this size.

Mr. Ordway of Warner. I want to say this: that I came here under instructions from the people I conversed with in my town to seek to get the jurisdiction of justices increased to one hundred dollars. I do not know how it is in other towns in this state. I know in some states they have laws giving rights to either party—the right, as it is called, to swear a case away to any justice. I suppose that a course might be adopted by the legislature providing for a trial justice to be appointed. I have no fear but that it could be done; but I had felt that we ought to provide some way to obtain larger jurisdiction for justices of the peace, so that the people can commence their suits at home. And, if they cannot, it will be time enough to argue against this proposition when some particular method

has been put in writing, and it is suggested that it may be adopted by the legislature,—then we can find fault with it. Now, that is not the question here at all. So far as I am concerned, I am not prepared at the present time to discuss any particular law the legislature might pass; but it is simply to strike out all impediments in the Constitution to their action, that they may devise some method. I know that, before coming down here, a great many of my constituents talked with me, and said, “Oh! you lawyers will control this convention.” I do not want that said of me, whether it amounts to anything or not. I do not believe the profession is opposed to anything that will give the people speedy justice. I do not believe half that, because, if I did, the Lord knows I would go for the abolition of the legal profession entirely. That is one reason I have urged it so strongly upon this convention.

Mr. Hardy of Keene. I would inquire if this question can be divided. I can conceive that there are a great many members who might be in favor of striking out “four pounds,” who might not be favor of inserting one hundred dollars, or twenty, or thirty.

The Chairman. I understand the rule to be, where the motion is to strike out and insert, it is not divisible.

Mr. Hardy. I should like an opportunity to vote on striking out and inserting separately.

Mr. Clark of Manchester. That applies to the convention, and we have no such rule applying to the committee of the whole. That being so, if the gentleman desires it, he can call for a division.

Mr. Hardy. I call for a division on striking out and inserting.

Mr. Wheeler of Dover. Pardon me for trespassing on your time one moment. I think that this matter is not now well understood. I do not understand any gentleman who has spoken upon this question to be opposed to having a tribunal with this jurisdiction; but, while we have so many justices of the peace all through New Hampshire, and in every town, we are opposed to having each and every one of those justices

having the control of our rights to the extent of one hundred dollars; and we think the legislature ought not to have the power to grant these rights to such a multitude of men. If it were limited, so that only justices who were abundantly competent for this business were appointed, I should go most heartily for that; but the legislature may provide, under the name of trial justices, exactly that tribunal. Select good men, and only good men, from a few towns; provide trial justices of that class, and you would have your same speed in litigation that you would have under this, and very much more so, because, if you had only competent men to act, parties would be satisfied, and appeals and continued litigation would not go on. It is a very unpleasant thing for counsel to hear his clients swear—and most men who go to litigation do—and some of them swear pretty strongly;—they will swear at the incompetency and the recklessness of justice, as determining their rights against them.

And upon the question being stated,—Shall the words “four pounds” be stricken out?—it was decided in the affirmative.

And upon the question being stated,—Shall the words “one hundred dollars” be inserted?—it was decided in the affirmative.

Whereupon Mr. Wheeler of Dover called for a division, when 158 voted in the affirmative and 87 in the negative, and the affirmative prevailed, and the amendment was declared adopted.

Mr. Page of Haverhill. I beg leave to question the vote. I would inquire if there are two thirds present and voting. I believe, under the parliamentary rule, it is necessary that two thirds be present; and I understand the ordinary parliamentary rule to prevail in the absence of any other rule.

The Chairman. The impression of the chair is, that where more than a majority vote—as in this case—no two-thirds rule applies.

Mr. Page. It was not understood in this part of the hall. I desire that there may be a re-statement of the ruling on my point of order.



The Chairman. The ruling is, that a majority of the committee have voted that it does not require two thirds of those who vote to carry it, but that a majority is sufficient ; and therefore the amendment is adopted.

Mr. Hall of Manchester introduced the following amendment :

In Article 83, after the word "country," insert the following :  
"Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination."

Mr. Hall. I think the object of this amendment will be apparent to every member of the committee. It is designed to prevent, in this state, the appropriation of any money raised by taxation for purposes of sectarian education. I think it is plain that the framers of our Constitution intended to provide for a system of public education, and that they intended that that system should be supported by money raised and paid by the people of the state, to be applied to schools for the purpose of educating all the people. And I think it is certain, too, that had they supposed that in any coming time money would stand in danger of being diverted from that purpose, they would have made some provision against it. I do not propose now, Mr. Chairman, to offer any argument to show the necessity of this amendment at the present time. It is enough to say, Mr. Chairman, that the causes which in other states have operated to give millions of the people's money to sectarian schools and institutions are operating here. Twenty-two states in this Union have seen the necessity, or the wisdom, of adopting similar amendments to their Constitutions. I think it would be wise for the state of New Hampshire to anticipate that danger, and at this time to put the provision I have suggested into her Constitution. It has been said here, Mr. Chairman, that we should offer no amendments that are not simple and practicable. I submit there are no questions that can come before this convention that are more practical or of more vital importance than those which concern our public schools, and looking to their protection against all assaults. I do not know, sir, that the wording of this amendment which I have offered is the best,

or that the place in which I propose to put it is the best ; but I would like to have the committee adopt it, that it may go before the suitable committee and receive further consideration.

Mr. Barton of Newport. The committee has been in session a long while, and various subject-matters have been brought before it for consideration ; and I move that the committee do now rise, report progress, and ask leave to sit again.

And the motion was adopted.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Sargent, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the judicial department, and have adopted the following amendments, viz. :

To Article 73. At the end of the article add the following words, viz. : “ but in no case shall such removal be for political reasons.”

To Article 77. Strike out the following words : “ so that a trial by jury in the last resort may be had.”

To Article 77. Strike out the words “ four pounds,” and insert the words “ one hundred dollars.”

On motion of Mr. Ramsdell of Nashua, the convention took a recess till seven o'clock this evening.

#### EVENING.

Convention, at seven o'clock p. m., assembled.

On motion of Mr. Sargent of Concord, the convention resolved itself into committee of the whole on the judicial part of Part Second of the Constitution.

#### IN COMMITTEE OF THE WHOLE.

(Mr. Sargent of Concord in the chair.)

The amendment to Article 83, introduced by Mr. Hall of Manchester, being before the committee,—

Mr. Smith of Peterborough moved to amend the amendment as follows :

By substituting in place thereof, the following : "No public property, and no public revenue of the state or any municipal corporation, shall be appropriated to, or made or used for, the support of any school, educational or other institutions, under the control of any religious or anti-religious sect, organization, or denomination, or wherein the particular creeds or tenets shall be read or taught in any school or institution, supported in whole or in part by such revenue or loan of credit ; and no such appropriation or loan of credit shall be made to any religious or anti-religious sect, organization, or denomination, or to promote its interests or tenets. This shall not be construed to prohibit the reading of the Bible in any school or institution ; and it shall not have the effect to impair the rights of property already vested."

Mr. Smith of Strafford. I move you, Mr. Chairman, that the resolution relating to the 83rd Article in the Constitution be indefinitely postponed. I do this for two reasons,—first, that I do not think it needs amending ; and second, if we continue to amend the Constitution in the way we have begun, by the time we send it to our constituents they will not know it is the Constitution of the state of New Hampshire, and they will serve our amendments as they did those made in 1850. I think, sir, we had better indefinitely postpone the whole matter.

The Chairman. The motion, I think, is out of order. The rules of the convention do not apply for any indefinite postponement, and, if they did, I do not think they would be applicable here. What we want is to report to the convention some definite action. The motion is on substituting the amendment of the gentleman from Peterborough for that of the gentleman from Manchester.

Mr. Smith. If it is not in order to move an indefinite postponement, I would move to pass the consideration of the article for the present.

The Chairman. That would be in order. That, I take it, would take precedence of either of the other motions.

And the question being stated, the motion was rejected.

Mr. Scott of Peterborough. My object in making that amendment was this: we have, during this convention, stricken out a religious qualification, which is right. And now I propose to place the school interests where they will be public; where all the children in this state can be educated alike, and where education will be given to all. I propose to guard those interests so that the public funds and public property of the state, or of any municipal corporation or town, shall never be used to support and sustain any one particular sect or denomination. I make it so that the children of every inhabitant of this state shall alike be permitted to attend the public and common schools of this state, and share alike their blessings and their privileges. I also add the last clause for this reason: that any property heretofore vested in any of these schools shall not be disturbed; that these schools and institutions shall have and maintain and control whatever property has been vested in them heretofore; and, also, that nothing in this section shall be so construed as to exclude the reading of the Bible in our common schools,—leaving that to every town and every city in this state to decide for themselves whether it shall be read or not. And I believe that this amendment to the Constitution is what is required; it is a safeguard. And it is substantially—although the words are changed a very little—the same amendment passed by the senate of the United States, which, if it had passed the house, would have been submitted to every state in this Union for ratification.

Mr. Lyford of Canterbury called for the reading of the amendment. It was read by the clerk.

Mr. Hall of Manchester. I believe that any amendment which we may propose touching this question, should be in the fewest words and of the simplest character. I cannot see that the amendment offered by the gentleman from Peterborough changes the force of the amendment which I offered in any way, or improves it. I think you will find, upon examination, that that which I offered covers the whole ground. There is no necessity of referring to the question of the Bible, or of property. It simply provides that, hereafter, no money raised by tax-

ation shall ever be applied to sectarian schools, and it seems to me that it does it in simple and straightforward language, such as the people can all understand.

Upon the question being stated, the amendment to the amendment was rejected.

Whereupon the amendment of Mr. Hall of Manchester was adopted.

Mr. Slayton of Manchester. I am not quite fully persuaded in my own mind whether that clause [Article 97—"value thereof shall be computed in silver at six shillings and eight pence per ounce"] should be left there or not. I believe the pence used in those days were equal to  $1\frac{1}{3}$  cents, and that the worth of the silver ounce was \$1.12. Since that time silver has been worth 60 pence per ounce sterling, which would be \$1.20;—also, a few months ago it was worth  $48\frac{3}{4}$ , and within the week it is worth  $56\frac{1}{2}$ —equal to \$1.13;—so that to-day the silver ounce is worth within one cent of what it was one hundred years ago. Whether or not we should stick to that old reckoning in regard to silver I could not say.

Mr Gallinger of Concord moved to strike out Article 97, but the same was rejected.

On motion of Mr. Bell of Exeter,

*Ordered*, That the committee rise and report to the convention.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Sargent, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the judicial department, and have adopted the following amendment in addition to the amendments reported during the afternoon.

To Article 83. After the word "country" insert the following: "Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination."



Whereupon the several amendments reported from the committee of the whole were adopted, as follows :

To Article 73. At the end of the article add the following : "but in no case shall such removal be for political reasons."

To Article 77. Strike out the following words : "so that a trial by jury in the last resort may be had."

To Article 77. Strike out the words "four pounds," and insert the words "one hundred dollars."

To Article 83. After the word "country," insert the following : "Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination."

On motion of Mr. Bell of Exeter, the convention resolved itself into the committee of the whole on the legislative department of the constitution.

IN COMMITTEE OF THE WHOLE.

(Mr. Putnam of Warren in the chair.)

Mr. Ordway of Warner. When the matter of reducing the house of representatives was up, the other day, some gentlemen asked me some questions with reference to the amendments which I had proposed, reducing the house of representatives. At the time I had not the figures at hand. I will now ask the indulgence of the committee a few moments, to answer the gentleman from Keene [Mr. Hardy], and one or two other gentlemen who asked me some questions with reference to it.

Mr. Wheeler of Dover. I do not understand the gentleman to be in order.

The Chairman. We were discussing, at the last sitting, the proposition of the definition of a ratable poll.

Mr. Ordway. If the gentleman will excuse me a moment—if he desires to speak, I will give way.

Mr. Wheeler. I desire to withdraw the proposition which I submitted on Friday last—on consideration, and talk with several members of the convention and with my constituency—and I will offer the following as a substitute: Ratable polls

shall mean, male residents, as assessed in town, who have paid their taxes.

Mr. Marston of Exeter. I should like to inquire whether that excludes in the computation persons seventy years of age.

Mr. Wheeler. I do not understand that it does exclude that class of gentlemen. If the law, as it stands at the present time, excludes that class of gentlemen, the law is at fault and not the Constitution. The law, as it stands, I do not understand excludes that class of people; for I believe, since the law of 1871, gentlemen over seventy years of age, as well as under, are reckoned as polls. The amendment restores it substantially, as I understand, where it was before 1871. If gentlemen will pardon me two or three suggestions, I will make them at this time. This, you see, fixes a standard which is reliable. It is hard to conceive how it is possible for any wrong to be done to any one, or any "cheating," as the term is sometimes used, in any direction whatever. It is hardly to be supposed that any person, who could be reckoned a ratable poll, could be fraudulently represented as having been assessed and paid his taxes. It makes it very easy for the selectmen, for they have only to turn to the collector's list, and there count the names upon that list who have paid taxes; and when they have done so they have determined the number of ratable polls. I have heard several gentlemen speak of using the check-list in the place of what I here suggest. My objection to that is this,—that the check-list varies, and there is a temptation to put men's names on the check-list when they do not belong there. When it comes very close to making up another representative, the selectmen may have a temptation to use all the elasticity that the case will admit of, and might—if two, or three, or four, or half a dozen, only, were wanted—they might, perhaps, stretch their consciences a little to meet that particular occasion. But this entails considerable labor upon those men, because the question might arise in regard to the testimony that might be necessary in order to determine a man's age, or whether he had a right to vote, and it would impose upon the selectmen a great deal of labor. Some persons have proposed that we take the number of persons who voted at the last election. That, I think, is subject to the objections

which I have suggested, and to the further objection, that you would then have no permanent constituency by which you would be guided. The vote of the towns, the vote of the state, varies very considerably in different years. I think there has been a difference, within the last three or four years, of 10,000 to 15,000 votes, and it would make a very considerable difference in that respect. Others have proposed that this be based upon population; but I submit that that would be variable. Then we have no means of ascertaining in regard to our population, excepting by the census taken by the United States, which occurs only once in ten years. We might provide, it is true, for a census to be taken oftener—a state census; but that would be attended with considerable expense, and our people are rightly sensitive in regard to unnecessary expense. It seems to me, on considering the whole question, that here you have a thing which is permanent, easy to be ascertained, and which is certain; which relieves the selectmen from a great deal of labor, and from all possible uncertainty and fraud. I hope this proposition may meet the approbation of the gentlemen of this committee.

Mr. Sanborn of Franklin. I desire to inquire of the gentleman from Dover, through you, sir, what reduction that would probably make in the number of members of the house.

Mr. Wheeler. I can only say, Mr. Chairman, to the gentleman, that he can judge as well as I. I have made no figures upon it. I can answer, perhaps, so far as this,—it will certainly reduce the house to a standard somewhat below what it was before 1871. It must reduce it certainly to that. I have not had the data on which to base any calculation, and have left that, as I understand other gentlemen have been making figures in that direction,—how far I do not know.

Mr. Gallinger of Concord introduced the following: .

Amend Article 9 by striking out all after the word “privileges” in the fifth line, and inserting the following: “having 800 inhabitants, may elect one representative; if 2000 inhabitants, may elect two representatives; if 3500 inhabitants, may elect three representatives; if 5000 inhabitants, may elect four rep-

representatives; and so proceeding, making 1500 inhabitants the mean increasing number for every additional representative;—the number of inhabitants in each case to be the number shown by the last preceding official census, taken under the authority of the United States; and no town shall be so divided, or city warded, as to change the above rates of representation.”

Mr. Bell of Exeter. I would like to inquire of the gentleman from Concord whether the effect of the amendment would be to require the cities to elect by general ticket, it being provided that no cities should be so re-warded as to increase the number.

Mr. Gallinger. I should think not. This refers simply to future changes in the ward lines.

Mr. Morse of Portsmouth. I would like to inquire further of the gentleman from Concord, if his idea was carried out, how each ward in a city would know what their proportional part of the representation from that city would be—how we are to understand how to divide off the city into wards.

Mr. Clark of Manchester. I do not understand that the gentleman's amendment can take precedence of the proposition of the gentleman from Dover. I do not understand that he made it in that way; it will come up in its proper order. The proposition of the gentleman from Dover is under consideration.

Mr. Gallinger. That was my purpose—simply to get it before the committee for action.

Mr. Gilmore of Manchester. I have a similar proposition, which I would like to hand in and have read, to take its usual course. I am not particular as to its being considered at the present time.

The Chairman. The proposition will be considered by unanimous consent.

Whereupon Mr. Gilmore introduced the following :

Strike out all after the word “privileges,” in the fifth line of the 9th Article, and insert the following: “casting 150 votes for governor may elect one representative, and casting 450 votes for governor may elect two representatives, and so on, making

300 votes for governor the mean increasing number for every additional representative ; and the number of votes cast for governor the previous election in any town shall be the basis for determining the number of representatives for that town ; and provided further, that any town not casting 150 votes for governor, but casting 60, may, on consent of the legislature, elect one representative.

Mr. Wheeler of Dover. I would like to inquire if this committee have not already voted that, in reducing the house, they would do it by defining a ratable poll?

The Chairman. Such is not the impression of the chair. The record of the convention will undoubtedly show.

Mr. Sargent of Concord. As we are upon these matters, I would ask leave, by general consent, to introduce a resolution—which I do at the request of several members, and which I now send to the chair—to wit :

*Resolved*, That the state be divided into 100 representative districts, to be formed so as to contain, as nearly as may be, an equal number of inhabitants, and in such a way as to conform to the existing county, town, and ward lines, so far as may be, and that each of said districts shall be entitled to send two representatives to the general court. The legislature may from time to time change those districts, so as to make them conform as nearly as may be to the foregoing conditions ; but in no case shall any change be made in said districts oftener than once in ten years.

Mr. Sargent. I believe, if such a system can be adopted, it is the best, most feasible, and the most just of any system that it is possible to adopt. I suggested that perhaps the state might be divided, so that each district might send one senator and a certain number of representatives ; but, on reflection, it might be found that, when these districts were made, it would almost inevitably result in having the senate and the house of the same complexion politically, because if one party carried the senator, they would be likely to carry the representatives in the same district. I think, upon the whole, it would be more just to have the senatorial districts either remain as



they are, or to have them districted for the election of senators alone, and have representative districts by themselves. I therefore introduce this resolution.

Mr. Wentworth of Concord introduced the following :

Strike out in the 9th Article, after the words "entitled to town privileges," the words "one hundred and fifty ratable male polls, of twenty-one years of age and upwards," and insert the words "one hundred and sixty legal voters."

Also, strike out in the same article the words "four hundred and fifty ratable polls," and insert the words "six hundred legal voters."

Also, insert in the same article, after the words "two representatives," the words "if eleven hundred legal voters may elect three representatives."

Also, strike out in the same article the words, "making three hundred ratable polls," and insert the words "making five hundred legal voters"—

So that, as amended, it would read, "having one hundred and sixty legal voters may elect one representative, if six hundred legal voters may elect two representatives, if eleven hundred legal voters may elect three representatives, and so on in that proportion, making five hundred legal voters the mean increasing number for every additional representative."

Mr. Wentworth. One word. This proposition preserves the rights of the smaller towns and town representation,—towns that will not as a rule grow larger, but will fall off in number, and have to be classed ; and it does not conflict with the larger towns, only so far as it asks them to yield something by way of representation to their less populous neighbors, in the same spirit of compromise which enabled our fathers in the federal constitution to unite the larger and smaller states, by giving each state two senators ; and the same spirit is also manifest in making up the electoral college. If this or any other article of our Constitution is ever changed, the people must be satisfied that there is no selfish motive concealed in the amendment, and that it has for its object the greatest possible good of all our people,—for they hold that dear old instrument, as well as the Bill of Rights, as a precious legacy, full of wisdom

and truth, handed down to them by their revolutionary fathers ; and they will be slow to part with a single word of it, only so far as the growth of our state demands it. This change will cover the demand needed, and will do away with the work of hunting up ratable polls. The proposed amendment will, striking out all special legislation, reduce the house about one hundred and twenty-five. This, with biennial sessions and an increase of the senate, would meet the wants of many who voted to call this convention. The reduction would be no more than demanded, its advantages universal, and its disadvantages, if any, would soon be forgotten in the harmony and prosperity of the whole body politic.

Mr. Piper of Dublin introduced the following :

*Resolved*, That the 9th Article of Part Second be so amended that every town, city, parish, or place, entitled to town privileges, having one hundred and fifty male polls of twenty-one years of age and upwards, may elect one representative ; if six hundred ratable polls, may elect two representatives ; and so proceeding in that proportion, making five hundred such ratable polls the mean increasing number for every additional representative.

The third proposition of Mr. Scott of Peterborough being before the committee, on motion of Mr. Ordway of Warner it was laid aside for the present—a division being called for on that question by Mr. Wheeler of Dover.

Whereupon 182 gentlemen voted in the affirmative and 20 in the negative, and the affirmative prevailed, and the third proposition was laid aside.

The fourth proposition of Mr. Scott being before the committee, was laid aside for the present, on motion of Mr. Gallinger of Concord.

On motion of Mr. Ordway of Warner, the committee proceeded to the consideration of the proposition of Mr. Hastings of Monroe ; and that proposition being before the committee, on motion of Mr. Burrows of Plymouth the proposition was laid aside for the present.

Mr. Hastings. When I submitted that proposition, I did not

intend—in making the remark that the delegations from the large towns, or of those that had two representatives or more—that their delegations should be divided by two. What I intended to say was, that all small towns that are now entitled to a representative, should have that representation still; and all those that were entitled to two or more should be fixed in some way, say 450 for one, and that an increase of 500 ratable polls entitled them to two, and so on. I find by this calculation that it would reduce the house of representatives about the same as it would by taking the course I suggested—reducing all those one half that then had two or over two. That was my idea; and this proposition of 450, with an increase of 500 and so on, would about accomplish what I have suggested. My idea is, that we do not, in the first place, expect to submit a proposition that will be perfect in every respect; that will do perfect justice to every section of the state; nor that will give perfect satisfaction to the voters of every section of the state;—but I want to come as near to it as I can. I want to submit something that will be satisfactory to the people. According to this proposition, there are about 160 odd towns that now are entitled to one representative. This proposition will give every town, with town privileges, a representative in the legislature, selected by themselves and within themselves, so that there will be no one town left out in the cold. Therefore I take it for granted that the members here from those 160 odd towns will be in favor of that proposition most unanimously. I take it for granted that their constituents will also be nearly unanimous for that proposition. It cannot be otherwise, because they would all be represented, and their interests will be looked to, one and all. Then, as regards the smaller towns, those that now have two representatives—such as Plymouth, Lisbon, and so on—I think that their interests would be looked to as well by one representative as by two; and therefore I think that they might be satisfied with the proposition, for the reason that they would be represented and their interests would be as well looked after. The city of Manchester, instead of having thirty representatives, would have fifteen: and so in all the large towns. They are so situated as to have men of talent and experience, who would be heard in the legislature. I think Manchester's interests would

be looked after just as well by fifteen members as they would by thirty, and therefore they would be well represented, and it seems as though they would be satisfied. If it is possible, in such a place as Manchester, Concord, or Nashua, they might have an axe to grind, it would take more muscle to turn that thirty than fifteen; but I take it for granted they would have no such thing in their minds, and therefore I think this proposition, on the whole, would be more satisfactory to the voters of this state than any other proposition, and I hope it will be adopted.

The proposition of Mr. Page of Haverhill being before the committee, was laid aside for the present on motion of Mr. Page of Haverhill.

The proposition of Mr. Burrows of Plymouth being before the committee—

Mr. Burrows. I will only say just a word. It seems to me that this will do away with all this talk about "ratable polls." There will be no danger, as the gentleman from Dover [Mr. Wheeler] suggested, that the selectmen will stretch their consciences a little, because they have to establish the number of legal voters. Therefore I do not think that the objection which the gentleman from Dover has mentioned is at all applicable to this amendment; and it seems to me to be as fair an amendment as we can have, and does away with the trouble of defining the ratable polls. I think the proposition ought to be adopted.

Mr. Barton of Newport. I understand the proposition to be based on "legal voters." I desire to get all the information that I can before I act. I have been listening here very attentively to all the propositions that have been made, and we have come now—as I understand the proposition—upon legal voters. Well, now, I really do not see that there is any proposition—there is none to my own mind—that is fairer than this. It does away with a great deal of trouble we should have to go through with if we based it on ratable polls. Now I will say, as we sometimes say in trials, "for the purpose of this trial we will rule so and so," and, for the purposes of this debate to-night, I will plant myself on the legal voter. I do not say whether it is to be 150 or 100, but I will say "the legal voter," because I can see that it does do away with a great deal of machinery that some of

these other propositions involve, and I do not now see any unfairness in it. If I happen to see any when I get more light, it will be different. What we are seeking for is "more light." And if, after receiving more light, serious objections appear, I will not bind myself to stick to this proposition one minute; but I have been, so far, only educated up to this point. I take this ground, that the best proposition that has yet been presented is that which bases representation on the legal voter; and so I stand for the present.

Mr. Jackson of Manchester. I have listened to all the propositions which have been submitted. I represent a section of the state where ratable polls are as abundant as in any other section of the state. We can make as many representatives out of ratable polls in the ward where I live as anywhere else in the state; yet I coincide with the gentlemen from Newport. I believe it is a clear, distinct proposition, that everybody can understand. When we have made our check-lists, we know how many representatives we can send. We shall be under no necessity of getting 1500 names to secure three or four more representatives. I believe that it is the desire of this convention to reduce the size of the house; and that is one of the main purposes for which we are sent here at this time. But I am clear in my own mind, if this convention is not willing to make the basis of representation on the legal voters, you will never reduce the house in the least; because, taking the basis of legal voters, you reduce it some forty or fifty members and wrong nobody. You have a class of representation here purporting to represent "ratable polls," but they are just as likely to misrepresent them as not. If we have our representation on the legal voters, that is enough; we ask for no more;—and I think the large cities will coincide with this view in their desire to reduce the number of members of the house.

Mr. Slayton of Manchester. The question is clear to some, but not so clear to others. As for myself, I don't know what a ratable poll is; and as for myself, I don't know what a legal voter is. I do not know how you are going to get at the number of legal voters, especially in our city. I think you would have the same difficulty in taking the legal voters as the ratable polls.



Mr. Sanborn of Franklin. I propose to base my action, as the gentleman from Newport has suggested, upon the light we have up to this time. I desire to know how much this basis will reduce the house. The point that we are to make is, to find some just and equitable way of making some reduction in the representation. The proposition of the gentleman from Plymouth is, to make the basis of representation upon the voter and not upon the ratable poll. I desire to know how that will affect the number of representatives; and if there is anything I intend to vote for—and I know what I am voting for—it is for a reduction of the house.

Mr. Wheeler of Dover. I suppose that will depend entirely upon the ratio of the representation. It is simply a question whether it shall be based upon the ratable polls, or upon the voters; and the whole reduction will finally depend upon the ratio you may adopt.

Mr. Barton of Newport. I desire that the committee shall understand the proposition. The question was raised by the gentleman from Franklin as to how the house shall be reduced. This proposition is only to fix a basis,—that is all—simply to fix a basis of action. This proposition is nothing more than that.

Mr. Burrows of Plymouth. The idea is, to fix upon something that you can reckon upon as sure. My friend from Manchester [Mr. Slayton] says that he does not know what the ratable polls are. If that is so, I do not think that the gentleman has employed his time very well if he don't know. We need but to fix the basis. The selectmen hold two sessions before the town-meeting,—one some days previous, and the other on the day of the town-meeting—an open session, in which every inhabitant of the town has the right to be present.

Mr. Sanborn. I think I now understand the proposition of the gentleman from Plymouth.

Mr. Mason of Moultonborough. The people that I represent all say "Reduce the house." That is the first thing that seems uppermost in their minds. But still, when we ask them how that is to be done, they are as much perplexed as we, and it will be a very difficult point for this committee to decide upon—the

method that will be satisfactory to every section, to every part of the state. I think that it is of the utmost consequence that we settle this point right here,—that is, what shall be the basis of representation,—before we go any further. I introduced, at the very first stages of this convention, a resolution defining a ratable poll, and also a voter; but still, I will be satisfied with the proposition that was read to the committee by Mr. Wheeler of Dover. I think that there can be nothing fairer than to take the legal voter as the basis. As I said when I put in my proposition that afternoon, a ratable poll should be one who had paid his tax the year previous—unless he was over seventy years of age, or had become a new resident subsequently, having lived six months in the town. That defines not only the ratable polls, but the voters. The trouble with us has been that we have young men come into town who go away into other states. They come there and vote appropriations for us to pay, and then immediately leave town and pay no taxes. I am fully in agreement with the proposition before this committee, that we make the basis of representation the legal voter, and after that I cannot say particularly as to the ratio,—but reduce the house to a certain extent; and I think there is no fairer way than by the legal voter.

Mr. Bell of Exeter. It is very apparent that the committee are now working entirely in the dark; that the very question which we want to know about is, what the effect of the several propositions now before the committee will be. In order that there may be wise judgment upon that matter, we need the information that the convention has ordered of the secretary of state. It seems to me desirable that we should not attempt to determine the basis of representation until we have that communication; and I therefore move that the 9th, 10th, and 11th articles be passed over for the present, and that we proceed with the 12th, in order that we may proceed more intelligently in reference to those articles in the morning.

Mr. Gilmore of Manchester. I desire to say a few words. I went over this very carefully to see where the amendment would affect sections, in case of a reduction of the house on the basis of the actual votes cast last spring. I am not prepared to say that I am for a reduction of the house; but provided this convention

sees fit to vote for a reduction, I will give them my conclusions on the actual votes cast last spring. I should say right here, that a ratable poll is one thing to-day, and another thing to-morrow. I hope that this convention will fix this so that in all future time we may know what the representation will be, and determine the basis. I went over every town, and I will here give you something of a recapitulation. Last year I make 384 representatives. In Rockingham county, this last year, there were 59 representatives; as proposed, 47. Strafford, 37; as proposed, 26. Belknap, 18; as proposed, 16. Carroll, 22; as proposed, 14. Merrimack, 51; as proposed, 46. Hillsborough, 75; as proposed 58. For the representation of Manchester, 13 less representatives; a reduction from 30 to 17. Cheshire county now has 32 representatives; reduced to 28. Sullivan, 22; as proposed, 18. Grafton, 47; as proposed, 40. Coös, 21; as proposed, 19. Making 384, and as proposed. 314—a reduction of 70 representatives. By my calculation there would be, by this reduction, 314 representatives another year. Mr. Burrows's resolution being similar to mine, I perhaps like it fully as well, and therefore I cheerfully support it.

Mr. Burrows of Plymouth. I move that the legal voters be the basis of the reduction of the house.

Mr. Bell of Exeter. My motion was, that we lay aside sections 9, 10, and 11, and commence with 12 and proceed from there.

Mr. Burrows. I hope that motion will not prevail until the basis of representation is fixed upon. I think that the committee is just as well able to fix upon the basis of representation now as at any other time, and I hope that the motion will not prevail.

Mr. Fisher of Walpole. I will say, generally, that I went to the printing office and found that we cannot get those tables until to-morrow morning. I have Cheshire and Sullivan counties fully, also their ratable polls. I have the difference between the ratable polls and legal voters in those two counties; also the polls taxed; also the votes for governor. If those will be of any use to the committee, I will read them.

Mr. Page of Haverhill. There is a difference of opinion. Let us have that report. We must have that report that has been ordered before we can act intelligently upon this subject. I hope, sir, that this motion will not be pressed. It will compel a statement to be made by individuals who are in no condition to make a statement without that report of the actual facts.

Mr. Sargent of Concord. I do not think that it is fair to press upon this committee to-night that they shall fix the standard that we are to adopt.

Mr. Burrows. I hope, upon further reflection, that the motion of the gentleman from Exeter will prevail.

And upon the question being stated, the motion of the gentleman from Exeter prevailed, and the 9th, 10th, and 11th articles were laid aside for the present.

And the committee proceeded to the consideration of the following articles :

Whereupon, on motion of Mr. Spring of Lebanon, the following amendment was adopted :

To Article 12. By striking out the word "annually," and inserting the word "biennially."

On motion of Mr. Quarles of Ossipee, the following amendment was adopted :

To Article 12. By striking out the word "March," and inserting the word "November."

On motion of Mr. Gallinger of Concord, the following amendment was adopted :

To Article 14. By striking out the words "shall be of the Protestant religion."

Mr. Robinson of Pittsfield introduced the following resolution :

*Resolved*, That the words "by a law made for that purpose," in Article 15, be stricken out, and the following inserted : "by the payment of the sum of one hundred dollars, and mileage to each member as now paid : *Provided*, if the governor shall call

an extra session of the legislature, each member shall receive the sum of three dollars per day."

Which was rejected on a division called for by Mr. Ordway of Warner, 41 gentlemen having voted in the affirmative and 141 in the negative.

On motion of Mr. Smith of Peterborough, the following amendment was adopted:

To Article 16. By striking out the word "annually," and inserting the word "biennially."

Mr. Gilmore of Manchester moved the following amendment:

To Article 24. By striking out the word "one" in the fourth line, and inserting the word "ten."

Mr. Sargent of Concord. It seems to me to be unreasonable to require, that when the yeas and nays are called for in the senate, it should be necessary to have ten members second the motion, because that would be almost unanimous in the senate. This amendment, I understand, refers to both branches—the senate and the house; and if so, I am in favor of making the rule in the house, that it should be on a motion seconded by at least ten members of the house; but in the senate, it seems to me, it would be sufficient to have two, or three, or perhaps one. In the house, I think it is a very proper suggestion that the yeas and nays should not be called unless requested by a certain number of those in the house. With this amendment, I should be in favor of the change.

Mr. Page of Haverhill. I hope this motion will not prevail. I do not believe that the right of any member of any district to have his vote on record should be stricken from the Constitution. It is a matter of privilege, of individual right, of members representing constituents. Again, passing by that, it is an amendment that would never receive the sanction of the people; and it is an amendment, like many others, that would encumber and hinder all our proceedings.

Mr. Gilmore of Manchester. I have no objection to amend the motion to meet the wishes of the gentleman from Concord; but I think those who have been conversant with the proceed-



ings here in Concord for the past few years, will know that this very matter has taken up more time than anything else during the whole session ; and I think that no one thing should take up the time of the session. It is not only that, but it covers the journal, I think three or four hundred pages,—not only an expense in writing, and consuming the time, but also in printing. And, in compliance with the suggestion of the gentleman from Concord, I will move that ten members of the house, and one of the senate, shall be required to second any motion for a call of the yeas and nays before the same shall be entertained.

Mr. Bingham of Littleton. As I understand, sir, the proposition which is now before the committee, it is to put a limitation or incumbrance on the mode of proceeding in our two houses of the legislature, against the wise provision our fathers put in the Constitution. I do not understand, from the gentleman who proposed the limitation, what the particular wrong is which it is to remedy ; nor do I understand from him, if there be any wrong, how it is that the amendment which he proposes can be any remedy. I cannot see how it is. I know that partisans in this house have been guilty at times of what is termed “fillibustering”—that is, they would unnecessarily call for the yeas and nays for the purpose of delay. Perhaps the delay was unreasonable or unnecessary ; perhaps the delay was reasonable and necessary ; but I will say this : for the purpose of delay, members on the one side and on the other have called the yeas and nays. Well, I do not understand, Mr. Chairman, how the remedy proposed here is going to stop that. If either party in this house make up their minds that they want to block the business by calling the yeas and nays, I do not see why it is not just as easy for ten of them to come together and join in making a call as it is for one, and I cannot see how this proposed remedy is any remedy at all ; and my conviction is, at the time, that this article in our Constitution had better be let alone—just as it is—even if it is a nuisance to have the yeas and nays called. I do not think it is, for there are occasions when it is entirely proper to have the names of individuals placed upon record, and the way they have voted shown upon the journal ; and there is no danger in the custom except when

one party or the other decide to do what is termed "fillibustering;" and when they desire that, they can do it just as well after the Constitution is amended as the gentleman from Manchester proposes, as they can now. I cannot see any good to come from the proposed change.

Mr. Tilton of Derry. It strikes me that this is one of those evils that must be borne because it cannot be cured; and I think that the effect of this motion, if it be adopted, would be to increase the delay instead of lessening it: it would take a little longer to get ten men to ask for the yeas and nays than it would for one. The more legislation we have on this subject, the worse we would be off.

Mr. Eastman of Farmington. I hope the amendment will be adopted, for this reason, for instance, that there may be in the house one unwise member—there cannot be ten like him; and therefore I say, let us have a change in this respect. At the same time, I would not deprive any member of his right to have his name placed on record. I think that ought to be preserved. Let us not make any change that would do that.

And upon the question being stated, the amendment was rejected.

On motion of Mr. Bell of Exeter,

*Ordered*, That the committee rise, report progress, and ask leave to sit again.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Putnam, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the house of representatives, without concluding, and ask leave to sit again.

On motion of Mr. Sargent of Concord, the convention adjourned.

WEDNESDAY, DECEMBER 13, 1876.

Convention met according to adjournment.

(The president in the chair.)

Prayer was offered by the chaplain.

The journal was read and approved.

On motion of Mr. Gallinger of Concord, the following resolution was adopted :

*Resolved*, That the secretary be instructed to procure, at the close of this convention, fifteen hundred printed copies, in pamphlet form, of the proceedings, to be distributed as follows under the direction of the secretary of state : One copy to each member of this convention ; one copy to each town, to be kept in the office of the town-clerk ; one copy to each secretary of state of other states and territories, to be placed in their respective state libraries ; one copy to each public institution of learning in our state ; one copy to each public library in our state ; five copies to Dartmouth college ; five copies to the New Hampshire Historical Society ; ten copies to the New Hampshire state library ; and the balance to be disposed of at the discretion of the secretary of state.

On motion of Mr. Kimball of Ward 5, Concord, the following resolution was adopted :

*Resolved*, That a committee on finance, consisting of three, be appointed by the chair.

And the president announced the finance committee as follows : Kimball of Ward 5, Concord, Sturoc of Sunapee, Hatch of Keene.

On motion of Mr. Ramsdell of Nashua, the convention resolved itself into committee of the whole on so much of Part Second of the Constitution as has not been considered by the committee.

IN COMMITTEE OF THE WHOLE.

(Mr. Sanborn of Franklin in the chair.)

Mr. Berry of Windham introduced the following resolutions :

*Whereas*, There are a number of propositions relative to amendment of the 9th Article—

*Resolved*, 1st—That the committee consider the propositions in the following order, to wit: 1st. The second proposition of Mr. Scott of Peterborough. 2d. The proposition of Mr. Page of Haverhill. 3d. The third proposition of Mr. Scott of Peterborough. 4th. The first proposition of Mr. Scott. 5th. The fourth proposition of Mr. Scott.

*Resolved*, 2d—That all propositions shall be considered in the order of these leading propositions.

Mr. Fisher of Walpole. In deliberating upon the several methods you will pursue in reducing this house—for I understand, from the vote taken, that we have concluded that it is for the interest of the people that the house shall be reduced—I would like, before we commence figuring on the tables—

Mr. Bell of Exeter. I would respectfully suggest that discussion upon that subject would not be germane to the other subjects now before the committee.

The Chairman. The gentleman from Walpole is in order, and may proceed.

Mr. Fisher. I was about to say that it was necessary for us to conclude, before we commenced figuring, whether we should reduce the house fifty, or one hundred, or how much we should reduce it. As long as we don't know whether we are going to reduce it fifty, or one hundred, I shall not go to work to figure it out; but if this committee can tell me what definite conclusion they have come to, I will go to work to figure it out, and do something. We might proceed to reduce it, on one theory after another, and never come to a definite conclusion. I therefore propose to offer a resolution—

The Chairman. At this stage of the proceedings, the gentleman's resolution is out of order.

On motion of Mr. Bell of Exeter, the various propositions relating to the house of representatives were laid aside for the present, and the committee proceeded to the consideration of so much of the Constitution as relates to the senate.

Mr. Burrows of Plymouth moved to amend as follows :

By striking out Articles 25 and 26, and inserting the following: "Article 25. The senate shall consist of thirty members, who shall hold their offices for two years from the first Wednesday of June next following their election.

"Article 26. Each county in this state, as now located, bounded, and established, shall constitute and form a separate district—an unchangeable senatorial district—in each of which three senators shall be elected."

Mr. Burrows. My proposition is, that the senatorial districts shall be fixed. Within the last few years they have been greatly gerrymandered. In 1873 one party got them into very ill-looking shape; and in 1874 the other party did the same thing. What I propose to do is, to have each county form a senatorial district, and that each district may send three senators. I know it may be said that this is unfair as to population, and all that sort of thing. But it is on the same principle that the United States senate is formed,—that is, the state of New Hampshire, being a small state, has just as many senators in congress as the state of New York, which is a very large one; and it seems to me that it will take out of the way of the legislature the very reason that has caused it to cut up the districts and gerrymander them, as has been done for the last three or four years. Therefore I hope my proposition will succeed.

Mr. Morse of Bradford introduced the following amendments to Article 25 :

Strike out of the first line the words "twelve members," and insert the words "thirty members."

Also, strike out the words "one year" in the second line, and insert "two years"—

So as to read, "The senate shall consist of thirty members, who shall hold their office for two years from the first Wednesday in June next ensuing their election."

Mr. Wentworth of Sandwich, by request, introduced the following amendment :

The house of representatives shall consist of one hundred



and fifty-six members,—to wit, thirteen from each of the senatorial districts,—the same to be equitably apportioned among the towns by the legislature ; and no person shall be eligible as a member of said house who does not mainly support himself and his family—if he have one—by means of his own muscular labor. And the senate shall consist of forty-eight members,—to wit, four members from each of the senatorial districts ; and said members may be professional men and men of wealth, and statute law may determine the manner of their election.

Mr. Wheeler of Dover introduced the following as a substitute for the proposition of Mr. Burrows of Plymouth :

Add to the 26th Article the words, “and each senatorial district may elect two senators.”

Mr. Clark of Manchester moved to amend Article 25 by striking out the word “twelve,” and inserting the word “twenty-four.”

Mr. Ordway of Warner moved to amend the amendment by striking out the word “twenty-four,” and inserting the word “thirty-six.”

Mr. Ordway. I would simply say, that if the house is reduced one hundred members, and the senate is increased to thirty-six members, by the computation that I make it would give the house two hundred and sixty-one members.

Mr. Benton of Lancaster. I rise for the purpose of making some remarks in regard to the amendment of the gentleman from Warner. I hope that it will be adopted. The house as now constituted consists of a large number ; and the same reason for reducing the house applies with equal force in favor of having the senate increased to a respectable number. The gentleman from Exeter [Mr. Marston], in his appeal the other day, took the ground that there was greater security in having a large number in the house ; that they are more free from any control by any improper influences in the legislative business ;—and that will apply with equal force to the senate. As the senate is now constituted, even if the number is increased to twenty-four, its number would be entirely disproportionate to the number of the house. It would not correspond at all,

considering the number that has been sent by nearly all the states in the Union to their higher legislative branch, and the number of senators in the United States congress compared with the house. I think that thirty-six is none too many senators. If we are to have two or three hundred members of the house, my opinion is that there should be about one senator to every three or four members of the house ;—and why not? There is ample room to accommodate as many senators as that ; and if there is more security by having a large number in the house, I say does it not apply with equal or even greater force to an increase of the number of the senate? Who does not know that this senate of twelve men has stood out against three hundred and fifty members of the house of representatives, and held the legislature in check, and put a stop to it entirely? Now, the gentleman from Exeter [Mr. Marston] says he wants the state to bring in the young men from the cities and towns, and elect them as members of the house ; that they will make better citizens. Why should not his proposition apply with equal force to the senate? His argument in regard to the house of representatives will also apply to the senate. To say the least, let us have a respectable number, proportionate somewhat to that of the house.

Mr. Sawtell of Lyme. I like the amendment offered by the gentleman from Manchester. There is very little machinery in it. The districts are all well enough, probably, at present. We can go right along fixing the senate without going through any long, complicated matters. I am quite of the opinion that to elect two senators from each district would be the best and wisest manner to get at the whole matter.

Mr. M. C. Burleigh of Somersworth. I am in favor of twenty-four, and for this reason : We desire to reduce the house of representatives, because there are too many here to be accommodated. If my recollection of the size of the senate-chamber is right, thirty-six is too large a number to be accommodated in that chamber, unless we rebuild the state house. I think it is wiser to adapt ourselves to the seating capacity of the place, than to put a number in there that the chamber will not accommodate.

Mr. Burrows of Plymouth. I hope that the motion to increase the senate to thirty-six will not prevail. It seems to me that in the proposition of thirty there is more justice. The effect of it will be, to give each party its right, and not infringe upon any of them; and I hope that the proposition of the gentleman who moved that the number be fixed at thirty-six will not prevail.

Mr. Gallinger of Concord. I desire to say a single word in favor of the proposition before the committee. It occurs to me that thirty-six members of the senate is not out of proportion to the number that the house will probably contain after we have reduced it, as I presume we shall. For the consideration of the committee, I will call its attention to other legislative bodies in other states, and the relative proportion of the senate and house of representatives in this state, showing the fact that if we increase our senate to thirty-six, and reduce our house even one hundred or one hundred and twenty-five members, we shall still have, relatively, a smaller senate than almost any other state in the Union. I find that in Alabama the senate consists of 33 members, and the house of representatives of 100 members; Arkansas—senate 22, house 80; California—senate 40, house 80; Connecticut—senate 21, house 238; Delaware—senate 9, house 21; Florida—senate 26, house 52; Georgia—senate 44, house 175; Illinois—senate 35, house 85; Indiana—senate 50, house 110; Iowa—senate 50, house 100; Kansas—senate 25, house 87; Kentucky—senate 38, house 100; Louisiana—senate 38, house 101; Maine—senate 31, house 151; Maryland—senate 22, house 74; Massachusetts—senate 40, house 240; Michigan—senate 32, house 100; Minnesota—senate 22, house 47; Mississippi—senate 33, house 107; Missouri—senate 34, house 127; Nebraska—senate 13, house 39; Nevada—senate 20, house 39; New Hampshire—senate 12, house 390; New Jersey—senate 21, house 60; New York—senate 32, house 128; North Carolina—senate 50, house 120; Ohio—senate 37, house 105; Oregon—senate 22, house 47; Pennsylvania—senate 32, house 100; Rhode Island—senate 33, house 72; South Carolina—senate 31, house 124; Tennessee—senate 25, house 83; Texas—senate 30, house 90; Vermont—senate 30, house 235; Virginia—senate 43, house 137; West

Virginia—senate 22, house 56; Wisconsin—senate 35, house 100.

Now, for any reduction that we can reasonably expect to make, and have it ratified by the people, I submit that thirty-six senators will be proportionately small to offset so large a house as will be constituted after a reasonable reduction is made; and for that reason I cheerfully support the motion before the committee to have thirty-six fixed upon as the number that shall constitute the senate.

Mr. Burrows of Plymouth. If it is designed to have a larger senate, my aim is simply to so fix the districts as that there will be no gerrymandering. I hope that we may fix upon the number of the senate, and then have the districts so fixed that they cannot be gerrymandered—that is, in case the politics of the state should change.

Mr. Sawtell of Lyme. I am in favor of reducing the house to one hundred and fifty members, because my constituents are in favor of it, and I believe that the citizens of New Hampshire all favor it, as well as their representatives. If there are one hundred and fifty members in the house, twenty-four, I think, would be enough to have in the senate. Why do we need thirty-six?

Mr. Barton of Newport. I think that there is great force in the proposition made by the gentleman from Lancaster [Mr. Benton], and I am in favor it—and also in the remarks of the gentleman from Concord [Mr. Gallinger]. The argument of the gentleman who has just taken his seat, as I understand it, is to this effect, that having a large house we ought to have a small senate,—because our house is larger, I think, than any other state; and that we ought to have a senate of at least thirty-six—or, that twenty-four may be preferable; but I do not understand that in the proposition he includes how they shall be chosen, but simply as to whether we shall fix it at twenty-four or thirty-six. To my own mind, it is obvious that a senate of thirty-six members is small enough. But I desire to say to anybody who thinks that this house is going to be cut down to one hundred and fifty members, that he is mistaken. It is never going to be cut down that much. If it were cut down to seventy-

five members, I should be satisfied. But I can tell the gentleman that if it is cut down to one hundred and fifty members by us here, the proposition will never be ratified by the people. If we can cut the house down seventy-five members, I shall be satisfied; but the way that that can be done has not yet been devised. When we attempt to cut it down, we shall find it is difficult work. When you survey the field, you will find it is very difficult to cut this house down over fifty or seventy-five members; and then, if that is done, we shall have a large house, and a senate of thirty-six is quite small enough.

Mr. Smith of Peterborough. I think that twenty-four is an appropriate number for the size of the senate. As the senate-room is now fitted up there are twelve seats, and another circle could be placed behind that one. I think that twenty-four is about as many members as can be accommodated at present in that chamber, without enlarging the present house, or building a new one. That is as far as my knowledge of it is concerned. Twenty-four, in my opinion, is as large as we want.

Mr. Ordway of Warner. In reference to the seating capacity of the senate-chamber, I will say, that if the gentlemen will go and measure the senate-chamber, they will find that fifty members can be accommodated probably better than representatives are accommodated in this hall. There is no trouble in arranging the senate-chamber for fifty members. There is plenty of room for three rows of seats, and fifty members can certainly be accommodated.

Mr. Sargent of Concord. It is argued that because we have a large house, we ought to have a large senate. I do not think so. The intention of the founders of our government was to have a large house of representatives and a small senate, and that is the way they fixed it. And it is said that a senate of twelve men would sometimes be a check upon what has been done by the whole house, consisting of about four hundred members. I know that is so; but I am inclined to think, that if public opinion has been in favor of it, it is better policy for us to have a small senate and a large house. In proportion to the whole population of the state, twenty-four will be large for the senate as compared with the house. Why, a senate of twenty-



four would be very much larger in proportion to the whole population of the state than any of these large states; but we need not cut the house down so as to make it only three or four times as large as the senate. I don't understand the argument to be legitimate, that, because we have so large a house, we therefore ought to have a senate in proportion. I think that the senate ought to be enlarged. I expressed an opinion in favor of enlarging the senate to twenty-four instead of thirty-six, because, even with twenty-four, we shall have a number larger in proportion to the population,—and, in addition to that, we shall have a larger house,—than any other state in the Union, according to its population.

Mr. Wheeler of Dover. I see no relation between the number of the senate and the number of the house. Let us form a senate independent of the house,—one that we think will meet with the approbation of the people of New Hampshire,—and let that senate stand for all time, or until it is found best to change it. I submit that twenty-four members for the senate is enough.

Mr. George of Barnstead. My honest opinion is, that if you make an increase of the senate from twelve to thirty-six, and reduce the house to one hundred and fifty members, the people of New Hampshire will never ratify what we do, and I consequently shall go for the proposed amendment of twenty-four.

Mr. Marston of Exeter. I would suggest that it is unnecessary to make these verbal amendments, as the committee having the whole subject in charge can do that. The committee having decided that they will increase the senate to twenty-four members, all the grammatical changes to accord with that change can easily be made by the committee, and thus save the convention much valuable time.

Mr. Burns of Lancaster called for a division of the question.

And the question being stated: Shall the word "twelve" be stricken out?—it was decided in the affirmative, and the word "twelve" was stricken out.

And the question being stated: Shall the word "thirty-six" be inserted?—it was declared rejected.

Whereupon a division was called for, and 29 gentlemen voted in the affirmative and 225 in the negative, and the motion was rejected.

And the question being stated: Shall the word "twenty-four" be inserted?—it was decided in the affirmative.

Whereupon a division was called for, and 221 gentlemen voted in the affirmative and 34 in the negative, and the affirmative prevailed, and the word "twenty-four" is inserted, and the amendment adopted.

Mr. Burrows of Plymouth moved his proposition as an amendment, and the same was declared rejected.

Whereupon a division was called for.

Mr. Wheeler of Dover. I agree with the gentleman from Plymouth in regard to the gerrymandering of the districts, and I think that it would be well to provide in one of these articles that there shall be no redistricting oftener than once in ten years. I make that as a suggestion.

Mr. Burrows of Plymouth. I would be very happy to accept this suggestion of the gentleman from Dover, if he will go back and take the year 1870 as the districts then were.

Mr. Wheeler. That is the work of the legislature, and not of the convention.

And the question being stated, 75 gentlemen voted in the affirmative and 126 in the negative, and the negative prevailed, and the amendment was rejected.

Mr. Cole of Gilford moved to amend Article 25 by striking out the words "one year" and inserting "two years,"—but subsequently withdrew the same.

Mr. Bingham of Littleton. My understanding of the present condition of the 26th Article is, that the committee have voted to have twenty-four members in the senate, but have made no change in regard to the districts, and, consequently, if there are to be twenty-four members, more than one member will have to be taken from a district. My impression is, that, if it is expected that the people will ratify this increase of the senate, there should also be some provision for a change in the districts

as now constituted. I think that I shall be corroborated when I say that they are now very unfairly constituted in favor of one party and against the other, and I think the truth of what I say will be apparent; and because, therefore, I think it will be much more difficult to constitute twenty-four districts unfairly than it would to constitute twelve, I move the following amendment:

To Article 26. By striking out the word "twelve," and inserting the word "twenty-four."

And the same was adopted.

Mr. Bell of Exeter introduced the following amendment:

To Article 26. By inserting the following words: "Provided, that no new division of districts shall be made except in the years when a new apportionment of taxes shall be made."

Mr. Bartlett of Manchester. The gentleman's amendment is open to this difficulty. His amendment provides that the state shall not be redistricted for senators except in the year when there shall be an apportionment of public taxes. Suppose the legislature of any year desires to redistrict the state into senatorial districts: all they have to do is to order a new apportionment of public taxes.

Mr. Morse of Portsmouth. It strikes me that this amendment, if adopted, would lead to our interfering somewhat with the rights of the people. I think the legislature would claim the right to redistrict the state if they saw fit, and when they saw fit, and they would find some way to do it. It strikes me it is one of those things that had better be left for the people. I do not see the necessity of tying up things so that the people will not have any power to act in the state.

Mr. Bell of Exeter. In regard to the times when the apportionment is made, they are fixed by the general law of the state. It would not be in the power of the legislature of the state to make a new apportionment, except by ordering a new valuation to be made, which they may only make for the next year.

Mr. Bingham of Littleton. I am afraid, sir, that the proposition of the gentleman from Exeter [Mr. Bell] will fail to remedy the evil which he desires to reach; in fact, sir, I fear that it will aggravate that evil. We can have no assurance that when

the districts are constituted, and remain intact, unchanged, and unchangeable for five years—we can have no assurance but that they will be the most outrageous gerrymander that could ever be accomplished ;—we can have no assurance of that. And then the fact—if it should be so—if an unscrupulous political party should happen to be in power, we should see that party gerrymandering this state most outrageously for the purpose of carrying out its own plans ; and then the people are caught, as it were, in a trap. It shuts right down upon that gerrymander for five years. And it seems to me—perhaps I am unreasonable in my fears—but it seems to me that we have good reason to apprehend that that matter will be conducted in that way ; that one party or the other may be in power when the five years comes around, and make their gerrymander, and there it has got to stay, with no power to right it. I am of the impression that I should rather not have this litigation. I am of the impression that I should rather take my chance, in case of a gerrymander, to have it open to be revised and corrected as soon as the people come to their senses ; and when they have once come to their senses after having had “a high old time,” they are not very apt to get drunk again for some time. I should rather rely on the people, sir, than to make a limitation of this sort, which I really apprehend would be likely to operate as a trap in which designing politicians might catch the liberties of the people and shut them up for five years.

Mr. Jackson of Manchester. I have listened to all these various propositions, and it must be clear to every member of this committee that there is a great hatred to gerrymandering. I suppose that is so, because we have all suffered some inconvenience, and seen the partisan spirit and the baseness with which it is done ; and if there is any way under the sun by which His Majesty’s “gerrymander” can be floored and silenced forever, I think this committee would be very glad to find out that method. I have in my hands a proposition which I desire to submit to this committee. It is a proposition which is to be found in the constitution of Illinois, under the head of “minority representation.” When once engrafted into the Constitution, it secures to large minorities a certain portion of representation in every instance where three or four persons are voted for.

The Chairman. The opinion of the chair would be, that the suggestion of the gentleman from Manchester would be hardly germane to the proposition under discussion.

Mr. Jackson. It seems proper to me, because, if received with favor by the committee, it would allay the difficulty of districting the state in a partisan manner.

The Chairman. The chair rules the proposition out of order.

Mr. Sargent of Concord. If it were possible to provide in some way that the senatorial districts should be constituted by some impartial committee, or commission, made up of both or all the political parties, then I think, when once done, it would be very well to prevent any future redistricting of the state by either political party, at least until there was some occasion for it on account of some change in the valuation of the state. But, so far as I am able to see, I know of no way of dividing the state into senatorial districts—unless we provide a special way—except in the ordinary way by the legislature. We have got to get out of this ordinary way; and I believe in some special way for districting the state, in order to have it done without distinction of party,—which I do not know how we can do as a convention. As I said, if we could have this districting made by a commission made up of two or three from each political party—made even—and should then make a division that they would be satisfied with—then I would go for keeping it for a certain length of time. But as it now stands, it strikes me,—although in favor of fixing it providing it could be made right,—if we want our work to be accepted by the people, we had better let this matter be as has been suggested by our friend from Littleton.

Somebody would think that the party in power, whichever it might be that had districted the state, had not done it exactly to suit them, and the result would be that they would vote against the whole work of the convention, for fear that the political party would make up this districting, in the first instance, not exactly to suit them, and they be precluded from altering it. My own view is, although I should be in favor of fixing it at five or ten years, provided you could have it done, in the first place, to be satisfactory to the people generally; yet



I cannot see any way of accomplishing that, and therefore I think it may be as well to leave the whole thing as it is, and not do anything. If you do, some party will say, "Why, the party that first makes these districts will do so as against us, and if you cannot change it under five years we won't vote for it at all; we will vote against the whole thing." Although I would be in favor of fixing it, if we could, and be sure of having it right in the first place to suit the people, yet, taking into account all that can be said on one side and the other, I am inclined to think that we had better leave it as it is rather than undertake to change it.

Mr. Burrows of Plymouth moved to amend the amendment by striking out all after the word "except," and inserting the words "not oftener than once in five years."

And the amendment to the amendment was declared carried.

Whereupon a division was called for, and 184 gentlemen voting in the affirmative and 35 in the negative, the affirmative prevailed, and the amendment to the amendment was adopted.

The question recurring upon the amendment as amended, the same was rejected.

Mr. Thompson of Concord introduced the following amendment:

To Article 26. Strike out the words "the proportion of direct taxes paid by the said districts," and insert the following: "the population as shown by the most recent United States census; and no division shall be made oftener than once in ten years."

Mr. Burrows of Plymouth moved to amend the amendment by striking out all after the word "following," and inserting the following: "Each county shall be a senatorial district. Rockingham district shall have 4 senators; Strafford, 3; Belknap, 2; Carroll, 2; Merrimack, 4; Hillsborough, 6; Cheshire, 3; Sullivan, 2; Grafton, 4; Coös, 2."

Mr. Ramsdell of Nashua. By general consent we are groaning under the rule of this King Gerrymander; we are in great dan-

ger of losing our self-respect in our obedience to party dictates. Now, I have a proposition—and I hope the chair will indulge me a moment if I seem to travel a little out of the proper consideration of this question—I have a proposition which has come to my mind very recently, but which certainly seems to have some of the elements of fairness and permanency. The gentleman from Plymouth has proposed to divide the state, as I understand him, into ten senatorial districts, each district to consist of one county, and each county to have a certain representation in the senate, if I am correctly informed of his proposition. Now, if you will refer to the printed slips before us, you will see that the population of the several counties runs like this: Rockingham has nearly 50,000, Strafford substantially 30,000, Belknap substantially 17,000, and so on,—some 10,000, or some multiple of 10,000. Now those counties are very likely to remain, so far as their population is concerned, as they now are;—at any rate, if the population of the several counties changes, it will change in favor of the smaller towns and against the other towns. Now, if we could have a senate consisting of about 30 members,—I am in favor of 24,—but if we could have a senate consisting of about 30 members, we could divide them among the counties, and Rockingham would have its proportion; it would have such a proportion of the 30 senators as 50,000 bears to the whole population of the state. Now it seems to me, that, considering that the committee is in such a creditable frame of mind, in an attitude of hostility to all this gerrymandering, it is worth our while to stop and consider, and see if we cannot apportion these senators,—be they 24, 30, or 36,—among the several counties, so that the political parties shall not be injured, so that the people shall be fairly represented, and we have unchangeable senatorial districts from this time until such time as another constitutional convention assemble.

Mr. Bingham of Littleton. I like the proposition of the gentleman from Nashua so far as it goes, and if he will add to his proposition the proposition which was made by the gentleman from Manchester [Mr. Jackson], I will go for the whole thing, heart and soul, and I think it will put the representation of the senate in the most permanent, fair, and secure way that it pos-

sibly can be put,—that is, that he shall apportion the thirty senators among the ten counties according to population; then, in each county where the number of senators to be elected is three or more, there apply your system of cumulative voting. If that be done, I will go for the proposition.

Mr. Sawtell of Lyme. Would it not be well for the committee to consider the subject of having the districting done by the supreme court once in five years? I simply throw out the suggestion, as requested by gentlemen in this part of the house.

On motion of Mr. Whittemore of Pembroke,

*Ordered*, That the committee rise, report progress, and ask leave to sit again.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Sanborn, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the legislative department, without concluding, and asked leave to sit again.

On motion of Mr. Bell of Exeter, the convention adjourned.

#### AFTERNOON.

Convention met according to adjournment.

On motion of Mr. M. C. Burleigh of Somersworth, the convention resolved itself into committee of the whole on that part of Part Second of the Constitution which relates to the legislative department.

#### IN COMMITTEE OF THE WHOLE.

(Mr. Frink of Greenland in the chair.)

On motion of Mr. Mason of Moultonborough, by unanimous consent the several articles, to Article 28, were laid aside for the present.

Mr. Mason introduced the following amendment to Article 28:

After the word "manner" in the second line, add "legal voters;" and instead of the word "March" in the ninth line, insert "November."

And add, after the whole article, the following: "And a legal voter shall be decided to be a male inhabitant who shall have paid a poll tax in the town the year previous,—unless seventy years of age, or upwards,—shall have resided within the town six months next preceding the election, or attained his majority within the year, or become a new inhabitant six months prior to the election.

Mr. Mason. I have but a few remarks that I wish to offer at the present time. I believe it is clear enough. All the striking out I propose to do is simply after the word "manner" in the second line, to wit, "every male inhabitant." I simply wish to strike that out, and to insert in its place "every legal voter." And then there is no other change in the article whatever until we get down to the ninth line. Then I propose to strike out the word "March," and insert "November." I think, Mr. Chairman, it is very proper that we should come to some conclusion at this time, and in this article, in relation to what constitutes a legal voter. I do not propose by this to establish any basis upon the legal voter: by no means. It is simply to define a legal voter. You know that our state authorities, the selectmen of our towns, have been embarrassed very much by the provision of the Constitution which allowed every inhabitant to vote; and consequently the legislature passed a law requiring every voter to have lived in the town six months prior to the election. Now you see how directly that is in conflict with the Constitution, for it says "every inhabitant." Now, "inhabitant" means a man who lives in a place; who makes it his home; and, constitutionally, every man who lives in a town one day before the election has a constitutional right to vote in that town. If carried before the supreme court of this state, they would be obliged to decide in favor of the man who has been deprived of his constitutional right. Now, Mr. Chairman, we have been living and acting under a law that really is unconstitutional. I do not say it as a lawyer—I am not a lawyer. I have heard good lawyers say the same. I remember once on the floor in this house I heard a prominent lawyer—several of them—at that time admit that that law was unconstitutional; but for some reason every one consented that this matter should be enforced, and so it has never been brought before the supreme court.

Now is a good time to do away with this. The same objection may be made in the future. We may say that we have lived under this law so long that it has become part of the Constitution. That is not so. We are now to make a new Constitution, and it is quite as well to define what a voter is here, as to go to the legislature and let them do it in violation of the Constitution. Now, Mr. Chairman, I simply propose that the words "legal voter" shall be put in place of the word "inhabitant;" because, if it says "inhabitant," we must certainly do away with the law. We now profess that a man shall live six months in a town before he votes. So, if we do away with the word "inhabitant," we can call it "legal voter," and define a legal voter to be a man who has paid his poll-tax the year previous. If he has become a resident six months prior to the election, then he has a constitutional right to vote. I myself can see no objection why that should not be placed here, and, in fact, I can see every reason why it should be placed in this article,—because the qualified voter for representative is the qualified voter for senator, and the qualified voter for councillor is the qualified voter for senator;—so, if we establish what is a qualified voter for senator, we establish all the rest.

Mr. Murray of Canaan. It seems to me that this article of the Constitution reads very plain. It says here that "every male inhabitant of each town and parish with town privileges, and places unincorporated, in this state, of twenty-one years of age and upward, excepting paupers and persons excused from paying taxes at their own request, shall have a right" to vote. So I cannot see what plainer definition of a legal voter you could have than that. That is, to my mind, very explicit, very plain, and is a good definition, about which there can be no doubt or question; and I hope the amendment the gentleman has proposed will not prevail, for I think we should mar the beauty of expression of this part of the Constitution very much if the amendment were to prevail.

Mr. Mason. I did not for a moment suppose that this part of the article was not plain; in fact, it was because it was so plain that I wished to make the alteration. It is plain enough, if you are willing that every man should vote who is an inhab-



itant. If you are willing that a man, who lives in a town twenty-four hours before the election, should vote, then it is all well as it stands; and if you mean to live under an act already passed, that requires a residence of six months, then I think the language in the article is not near so clear as the gentleman [Mr. Murray] would have us understand. It is for this purpose that I ask this to be stricken out,—that we may not live under an unconstitutional law.

Mr. Stickney of Exeter. Does the gentleman intend that foreigners who have not been naturalized shall be legal voters?

Mr. Mason. I suppose it has nothing to do with foreigners whatever. I suppose a foreigner is not a voter, and cannot be, constitutionally.

Mr. Stickney. Whether he would not be, by the proposition as the gentleman states it.

Mr. Mason. I do not understand it so.

And the question being stated, the amendment was rejected.

The amendment of Mr. Thompson of Concord, with the amendment of Mr. Burrows of Plymouth to the same, being before the committee, Mr. Murray of Canaan raised the point of order that Mr. Burrows's amendment was out of order.

And the point of order was sustained by the chair.

The question recurring upon the amendment of Mr. Thompson of Concord—

Mr. Murray of Canaan. Upon this question, I desire to say one word. I am opposed to the amendment offered by the gentleman from Concord, for this reason: I believe it is the policy, or has been the policy, of our government that the legislature should represent the people,—that is, the house of representatives should represent the people of the state of New Hampshire. The senate is another branch, and, as I understand it, its duty is, or has been, to guard the people's money; that is, it corresponds with the House of Lords, while the house of representatives corresponds with the House of Commons. The senate takes care of the money and guards the treasury of the people. Well, now, that being so, I do not

think it would be fair to have the basis of representation of both the house and the senate fixed upon population, or upon the legal voters, or upon ratable polls. I think that our fathers very wisely provided for this in the very language of this Article 26, and in making this division they usually governed themselves by the proportion of direct taxes. Now I undertake to say, Mr. Chairman, that the framers of the Constitution entertained just that view,—that the senate was the guardian of the property of the state, of the treasury of the state; and the house of representatives represents the people. That is the fundamental principle of our government, as I understand it, and I am opposed to changing it. I am opposed to so radical a change as to have the senate and the house of representatives based either upon the population, or upon ratable polls, or upon legal voters. It should stand upon the wealth, upon the public taxes, just where the framers of this Constitution left it—a wise provision, in my judgment; and I hope that the amendment of the gentleman from Concord will not prevail.

And the question being stated, the amendment was rejected.

Mr. Brown of Kensington introduced the following resolution :

*Resolved*, That all of the 26th Article after the words “twenty-four districts” be stricken out, and the following be added: “of contiguous territory, and of as equal population as may be practicable.”

Which was rejected.

On motion of Mr. Atkinson of Northumberland, the following amendment was adopted :

To Article 29. Strike out, after the words “elected a senator,” the words “who is not of the Protestant religion.”

Mr. Fowler of Pembroke introduced the following amendment :

To Article 29. In line four, strike out the word “seven,” and insert the word “three.”

And the amendment was rejected.

Mr. Jackson of Manchester introduced the following amendment :

To Article 30. Add at the end the words, " In all elections, where three or more persons are to be elected to the same grade of office, such voter may cast as many votes for one candidate as there are persons to be elected, or may distribute the same in equal parts thereof among the candidates as he shall see fit; and the candidates highest in votes shall be declared elected."

Mr. Jackson. I do not propose to strike anything out of this article. I had prepared to add to it, and I indicated the proposition this morning. I do not propose to occupy much time, and I will very briefly state just what will be the effect of my amendment to the Constitution. It will enable the minority party in every town of the state to elect one member of the board of selectmen, and in every city it will enable the minority party in every ward to secure one member of the council; and the result will be, that the minority party will put a man in that council who will be a man indeed,—one who could raise the character of the other members of that body. Again: in every town where three republicans are chosen to the legislature, it will give the minority a chance to have one of the representatives. Gentlemen, is this desirable?—is this safe? Why, I recall the fact that there are 30,000 men in the state of New Hampshire who are not represented on this floor,—that is, the minority party. Not one of them is here; not one of them occupies a seat in this convention, except from a town where a majority of his friends cast their votes for him. The minority is at home, and not here. I propose to give the people an opportunity to express their judgment, whether they are in favor of minority representation or not. I believe the majority of this convention is in favor of it. It is suggested that the people cannot understand it. Do not flatter yourselves, gentlemen, that the minority party, when they have a right—when they have a privilege to which they are entitled—do not know how to obtain it. If there is a gentleman present who will say to this committee that my proposition does not secure what I have suggested, I would like to hear from him. I simply suggest this amendment, that the people may consider it, that this committee may consider it,

and that it may go before the people for their action. My voice is not in a condition to allow me to talk more ; so you will excuse me, gentlemen, from proceeding further.

Mr. Page of Haverhill. I regret to differ with the gentleman from Manchester, but I believe that the party in power has always to be burdened with the responsibility for all that goes on in the state. I believe, further, that the idea of power in this way is erroneous. And one more thing : I believe that it would be infinitely better in the cities and towns that the party having the political power should have it in unity and peace. I am in favor entirely, sir, of controlling and electing full political tickets in the cities that shall be entitled to more than one representative. For that reason, harmoniously, they would give weight to their opinion ; divided, they would simply deprive their locality of all its political influence.

Mr. Bingham of Littleton. I regard this proposition as very much the most important proposition that can come before this body,—the question whether this system of voting shall be adopted ; and I call the yeas and nays upon it, for the purpose of directing the individual attention of every member of the body to the subject, that he may consider it, that the people may consider it,—as I regard it as one of reform, and through and by its means the republic is to be regenerated. The idea is simply this : by the adoption of this system the effect would be, to secure the representation of the minority among the people in the representative body ; and if you adopt this system of voting, you will have a minority in the representative body having the same relation to the whole number in that representative body that the minority of the people bears to the whole number of the people. For instance, here is the city of Manchester : We will say, if they elect upon one ticket—and they do under this system of voting—a majority of one or two or three hundred would elect the entire delegation. If this minority system of voting was adopted, you would then have representatives from Manchester corresponding to the political body there among the people. And I look upon the effect of the adoption of such a system of voting as this : that the minority would be sure, if they could elect but one or two men out of the large

body of men, to elect their strongest man,—sure of obtaining the best man they had, and putting him into the legislative body, and, in consequence, in order to meet that man, the other party would be obliged to elect their best men; and I think the inevitable tendency, the inevitable consequence of adopting this system of voting, would be, to give us legislators on both sides—both minority and majority—more elevated in point of ability and character in all respects than they now are; and I therefore call the yeas and nays upon this question, that each individual may put his opinion upon this matter on record.

Mr. Quarles of Ossipee. It occurs to me that this minority representation might be well enough; but when we come to elect representatives, it might come so, that by uniting on five men out of the six nominated, and voting for them,—by doing this, you might give the minority party in the state a majority in the state house; and it is a dangerous experiment, as applied to the legislature in this state, the way the political parties now stand. That effect is self-evident. For instance, take the towns of Rochester and Great Falls, or Somersworth, I should have said. Now, suppose that the minority there—that is, the minority, as the parties throughout the state, by representatives elected in other towns, stand—obtain one of these representatives in that town: why the state would be represented by a minority party; that is, a minority of voters would have the legislature in that event.

Mr. Clark of Manchester. I have simply to make this suggestion to the committee, that for eighty years or more we have stood by the old-fashioned method of majority, and we know it works well. Now another plan is proposed, about which I think very few persons of this convention know anything—certainly no one by experience knows much about it in this state. It is proposed to put it in this Constitution, and tie up this house where we cannot alter it until we alter the Constitution again. I do not think we ought to try the experiment in this way.

Mr. Thompson of Concord. I desire to show to this committee how this proposition would work. It has been suggested



that we should have senatorial districts by counties. Now, then, supposing we take for illustration of this question Hillsborough county, which, by the proposition that was suggested this morning, is to have six senators. Now, suppose this question of adopting the minority representation should be adopted: what would be the effect of the proposition? Take the votes of Hillsborough county as they were cast at the last state election,—take the figures in round numbers,—they stand, republicans 8,000, democrats 7,000. Now, supposing that the whole county is to vote for six senators, what will be the effect of this proposition? The democrats are in the minority;—I take this simply for illustration, Mr. Chairman and gentlemen,—but the democrats have 7,000 and the republicans 8,000. According to this proposition, each one of the 7,000 democrats may vote for six candidates, or each one may give two votes for each of three candidates, or each one may give three votes for two candidates, or each one may give one and one fifth votes for five candidates, or each one may give one and one half votes for four candidates. Now, supposing that each one of 7,000 voters in Hillsborough county should cast one and one fifth votes for five candidates, notwithstanding that the republicans have 1,000 majority, five of the democrats would be elected and only one of the republicans. That is a fair illustration of this question. It would not be so unfair in the case where there are but three officers to be elected. If you will put it on that basis I will vote for it—where three officers are to be elected; but where you take more than that, it does not operate fairly.

Mr. Jackson. When I am satisfied that one is larger than two, or that five is larger than six, then I will believe the statement of the gentleman from Concord.

Mr. Morse of Portsmouth. It appears by the last two speakers that no one can understand it. One describes it just opposite of the other, and I think there is no one of much statesmanship that has ever advocated it. Transcendentalists, theorists, and that kind of people, get up all these ideas. It has been advocated by Abbie Kelley and that kind of people in the United States, but never has it been adopted by any respectable portion of the people. New Hampshire people are the last that

will do anything with the good old time theory that the majority shall rule ; and I hope that this amendment will not prevail.

Mr. Page of Haverhill. It seems to me that this whole matter comes down to this : The party who assumes political work must have control of the powers here, if they have got to take the responsibility. Now, is it unjust to ask that the party that has the responsibility to bear should also have the power ?

Mr. Bingham of Littleton. I shall certainly hope that this committee will better understand the operation of this mode of voting than they appear now to understand it, before they vote for it. I should certainly hope that, under the impression that some gentlemen have of this system of voting, they would not adopt it. I understand it, sir, to be a practical giving—as near as such a thing can be done—the representation of the various parties in a legislative body, corresponding to the strength of the parties among the people ; and the idea of, in a given county, the minority electing five out of six members is something that is entirely unknown to this system of voting, and it is entirely evident that the gentleman who talks about it does not understand it. And, so far from Abbie Kelley's being the author of this idea, I understand it is the distinguished politician and social economist, Mr. Mills, that is the author of this theory of voting, and he has written very much on the subject. It has been adopted successfully in Pennsylvania, to a limited extent. It has also been incorporated into the constitution of the state of Illinois, and it is said to be working well there ;—indeed, it could not do otherwise than operate well if it is adopted, and I have no doubt that it would act well in New Hampshire if it were adopted. The fact that our fathers did not know about it eighty years ago, when they adopted this Constitution, is no argument against it. I am very far from believing that our fathers knew everything ; they knew some things, and knew them very well, and what they knew that was good I will foster ; but if we can make any improvements on what our forefathers knew, in the name of common-sense, gentlemen, let us do so.

Mr. Smith of Newmarket. Although I am not in favor of

the proposition now before the committee, I do not understand that the gentleman from Concord [Mr. Thompson] has received a satisfactory answer to the figures he gave to the committee. There is, though, it seems to me, a perfect answer, in this: It is certain that if the democrats in Hillsborough county, which he has cited, accumulate on the senators, the republicans, instead of voting upon their six men so that the democrats would elect their five, of course would not so vote; they would accumulate their vote on four of them—the republicans would so vote for their own sakes; but, even if the democrats would accumulate on three, they will accumulate on four and elect them, allowing the democrats to elect two.

Mr. Cole of Gilford. If in order, I would move to amend that proposition, and make it apply only for town officers.

Mr. Parker of Fitzwilliam. I believe the argument of the distinguished gentleman from Littleton to be eminently sound; and while I should be willing to adopt this plan in the abstract, still, as we are sent here to accomplish certain limited things, it may be impolitic for the convention to adopt anything of this kind. This minority representation is presented, I think, by Professor Hare, and elaborated by that distinguished statesman and political economist, John Stewart Mill. I believe it has worked well in the state of Illinois. Still, at this time, and for the reason I have indicated, I think it unwise to submit the amendment to the people.

And upon the question being stated, the amendment was declared rejected.

Whereupon a division was called for, and 81 gentlemen having voted in the affirmative and 151 in the negative, the negative prevailed.

Whereupon the yeas and nays were demanded by Mr. Bingham of Littleton, and the call being duly seconded, and the roll being called, the following gentlemen answered in the affirmative:

ROCKINGHAM COUNTY.—Sanborn of Candia, Bean, Bell, Hanson, Batchelder, Clarke of Northwood, Hackett of Ward 1, Portsmouth, Marcy, Wendell, Brown of Raymond, Hoyt, Sawyer of South Hampton.

STRAFFORD COUNTY.—Wallace of Rochester, McDuffee of Rochester, M. C. Burleigh of Somersworth, Woodman of Somersworth, Smith of Strafford.

BELKNAP COUNTY.—Hodgdon, George of Barnstead, Perkins of Center Harbor, Dow, Tuttle, Moses, Shaw of Sanbornton.

CARROLL COUNTY.—Pitman, George of Bartlett, Farrington, Granville, Wentworth of Sandwich, Sanborn of Wakefield, Furber.

MERRIMACK COUNTY.—Bosworth, Gage, Morse of Bradford, Lyford, Tallant, Hollis, Gilchrist, Blake, Morse of Loudon, Morse of Newbury, Whittemore, Knowlton, Robinson, Flanders.

HILLSBOROUGH COUNTY.—Burt, Dow, Sleeper, Cooledge, Felch, Cilley, Jackson, Devine, Sullivan, O'Connor, Smith of Mont Vernon, Duffy of Nashua, Hutchinson of New Boston, Woodbury.

SULLIVAN COUNTY.—Sholes, Alexander, Hodgman of Lempster, Moulton, Adams of Springfield, Perkins of Unity, Carr.

CHESHIRE COUNTY.—Vilas, Bill, Bemis, Jones of Marlow, Stevens of Stoddard, Fisher, Pierce of Westmoreland, Morse of Winchester.

GRAFTON COUNTY.—Gale, Carbee, Mann, Sinclair, Applebee, Walker of Grafton, Parker of Hanover, Powers, Stevens of Lisbon, Bingham, Eastman, Farr, Moulton of Lyman, Lyford, Putnam.

COös COUNTY.—Sawyer of Berlin, Young, Taylor, Perkins of Jefferson, Burns, Atkinson.

And the following in the negative :

ROCKINGHAM COUNTY.—Clarke of Atkinson, Grant, Morrill of Brentwood, Greenough, Poor, Tilton, Bickford of Deerfield, Folsom, Edgerly of Epping, Stickney, Morrill of Exeter, Marston, Sanborn of Fremont, Frink, Eastman of Hampstead, Dow, Cram, Brown of Kensington, Corning, Dickey, Smith of Newmarket, Wallace of Newton, Moulton, Clark of Plaistow, Goodwin, Tredick, Hackett of Ward 2, Portsmouth, Howard, Morse of Portsmouth, Marden, Jenness, Webster, Clough, Healey, Berry.

STRAFFORD COUNTY.—Baker, Wheeler, Wallingford, Bickford of Dover, Clements, Smith of Durham, Eastman of Farmington, Huckins, Nute, Woodman of Lee, Meserve, Perkins of Middleton, Fox of Milton, Berry of New Durham, Whitehouse, Edgerly of Rochester, Jenkins, Wentworth of Rollinsford, G. W. Burleigh, Morse of Somersworth, Jameson of Somersworth, Foss.

BELKNAP COUNTY.—Rollins, Woodman of Alton, Key, Cole, Weeks of Gilford, Sargent of Gilmanton, Marsh, Whipple, Richardson, Dickerman, Brown of Tilton.

CARROLL COUNTY.—Mason of Albany, Coleman, Abbott of Conway, Wakefield, Danforth of Freedom, Cobb, Merrow, Carter, Quarles, Hubbard, McDuffee of Tuftonborough, Whitton.

MERRIMACK COUNTY.—Perkins of Allentown, Gault, Langmaid, Brown of Concord, Fox of Concord, Thompson of Concord, Badger, Sargent of Concord, John Kimball of Concord, Wentworth of Concord, Benjamin A. Kimball of Concord, Downing, Critchett, Hammond, Philbrick, Sanborn of Franklin, Head, Jones, Harvey, Colby, Smith of Northfield, Fowler, Bean, Ordway, Buxton.

HILLSBOROUGH COUNTY.—Davis, Kendall, Pattee, Chamberlain, Webber, Woods of Hollis, Severance, Eastman of Manchester, Clark of Manchester, Briggs, Bartlett, Waterman Smith, Cheney, Holbrook, McQuesten, Hall, Bean, Clapp, Walker of Ward 8, Manchester, Parker of Merrimack, Abbott of Milford, Fiske, Crosby, Ramsdell, Kimball of Nashua, Spaulding of Nashua, Dearborn, Parkinson, Gilman, Smothers, Preston, Scott, Smith of Peterborough, Emory of Sharon, Bacon, Wood of Weare, Sawyer of Weare, Neville, Jones of Wilton, Dresser.

CHESHIRE COUNTY.—Jackson of Chesterfield, Piper, Parker of Fitzwilliam, Amidon, Jones of Hinsdale, Pierce of Jaffrey, Gustine, Hardy, Hatch, Clarke of Keene, Wellington, Faulkner of Keene, Fuller, Melville, Converse, Newell, Nims, Wilson, Harvey, Lombard, Faulkner of Swanzy, Farrar, Buffum, Albee.

SULLIVAN COUNTY.—Brooks, Labaree, Hunt of Charlestown, Tolles, Walker of Claremont, Stowell, Winn, Rossiter, Pike of Cornish, Hall, Richards, Cooper, Sturoc.

GRAFTON COUNTY.—Hughes of Ashland, Wilder, Batchelder of Bridgewater, Beckford of Bristol, Adams of Campton, Day, Murray, Huse of Enfield, Remick, Hurlbutt, Page of Haverhill, Atwood, Shaw of Lebanon, Cushman, Stearns, Parker of Lisbon, Sawtell, Hastings, Heath, Pierce of Orford, Gould, Greeley, Blodgett of Wentworth.

COös COUNTY.—Bedel, Aldrich, Harvey, Wight, Akers, Howard, Benton, Twitchell, Blanchard, Wood of Randolph, Cummings, Pike of Stark, Drew, Eaton.

And 95 gentlemen having answered in the affirmative, and 216 in the negative, the negative prevailed, and the amendment was rejected.

Mr. Tilton of Derry. My attention was in another direction when the 34th Article was passed over. I have a paper in reference to that article. I would present the paper to the consid-



eration of the committee. I offer it at the request of some of my constituents :

Strike out Article 34, and insert the following : "And in case there shall not appear to be a senator elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, namely : The members of the house of representatives from that district shall take the names of the two persons having the highest number of votes in the district, and out of them shall elect by ballot the senator wanted for such district ; and in this manner such vacancies shall be filled in every district in the state ; but all vacancies in the senate, arising by reason of death, removal out of the state, or otherwise, shall be supplied, as soon as may be after such vacancies happen, by members of the house of representatives from their district, electing by ballot any eligible person in the district."

Mr. Tilton. It strikes me that this would come in as a substitute for the 34th Article. I wish to say, for the information of the committee, that I have been requested by some gentlemen of both political parties to present this. For myself, I have been fully persuaded that we are liable to do too much here, and so end in doing nothing. I feel pretty well satisfied with the article as it now stands, and yet I feel under obligations to present this matter in the form it has been presented to you. The argument in favor of this mode of filling vacancies is this, that, as it now stands, persons in different portions of the state vote for filling vacancies in the senate out of the senatorial district where they reside ; whereas, this plan would obviate that seeming injustice, and bring the matter before the members of the house from the district where the vacancy occurs. I simply wish the committee to consider the matter, and act as it seems to them just and proper. I am not tenacious at all about it.

Mr. Eastman of Farmington. I think the article in the Constitution as it stands is well enough ; I do not see any good reason for the change. I do not see any particular reason why these vacancies should be filled in this way. I think these vacancies should be filled in the way that the Constitution now requires. I hope, therefore, that the motion will not prevail.

Upon the question being stated, the amendment was rejected.

On motion of Mr. Bell of Exeter, the committee returned to the consideration of Articles 9, 10, and 11 of Part Second of the Constitution.

The proposition of Mr. Piper of Dublin being before the committee—

Mr. Berry of Windham. I introduced a resolution this morning relative to this 9th Article.

Mr. Ordway of Warner. It occurs to me that at the time we left this subject there was a proposition under discussion, and that, pending the discussion of that proposition, on the first article presented by Mr. Scott, the committee rose. It strikes me that this proposition—we having decided to take them up in their order—would now be in order.

Mr. Berry of Windham. It was decided this morning there was nothing before the committee. I introduced that resolution, because last evening I thought it an advantage for the committee to specify and confine itself to one subject until we acted upon it, in the room of taking up one, and passing over and taking up another; and I think that will take up the subject of which the gentleman from Warner speaks—the second or third article, I think, of Mr. Scott's.

Mr. Ordway. The vote, as I recollect it, was, that we take up the first proposition presented, then lay it aside and consider the next proposition,—and so through all that are presented: then go back and vote upon them. They were to be taken up; if any one had anything to say, they were to be discussed, and then passed on.

Mr. Burrows of Plymouth. I think the last thing we did on this proposition was on the 9th Article. There were several more propositions to amend this part of the Constitution, as I understand it, that have not been before the committee at all, except by reading.

On motion of Mr. Morse of Portsmouth, the proposition was laid aside for the present.

The proposition of Mr. Gallinger of Concord being before the committee—

Mr. Gallinger. I shall have to beg the indulgence of the committee for a few minutes in the discussion of this proposition, because I honestly believe it to be as fair a proposition, as honorable a proposition, as could by any possibility be presented to this committee. For myself, I am free to say that I believe in a material reduction of this house. I think I was never more astonished in my life than I was the other day, to hear the distinguished gentleman from Exeter [Mr. Marston], and the distinguished gentleman from Manchester [Mr. Smyth], declare to this committee that, in their judgment, any considerable reduction was not advisable. I supposed, before that time, that the people of this state—the tax-payers of this state—had settled it in their minds that a material reduction in the house was demanded at our hands. I remember a few years ago—indeed, a good many years ago—of reading some machine poetry that a member of the New Hampshire house of representatives perpetrated. I can only recollect one stanza of it. It ran after this wise :

“The seats are hard, the backs are straight,  
Which makes it difficult to legislate.”

Now, gentlemen of this committee, I think we might turn the crank once more, and, in view of the fact that the number of the house has very largely increased since then, continue it thus :

The seats are so crowded, and the members so close together,  
That it makes it hard to legislate in any kind of weather.

I believe that the people of this state demand a reduction of the house. I know that my own constituency demand it. I believe my colleagues in this convention will bear me out in this assertion, that the city of Concord desires a reduction of the house. Now, gentlemen of the committee, you will find by the *People Hand Book* that the house consists, at the present time, of from 380 to 393 members. There are several propositions before this committee to reduce that number. One is on the basis of ratable polls ; and there has been an attempt made, and doubtless will be made again, to define a ratable poll. I take it, gentlemen, a ratable poll is an unknown quantity, and I take it the committee will find it impossible to define it so there can be an

honest agreement. We have heard gentlemen say in this committee,—the gentleman from Manchester said, in his own city it was not very difficult to get the number of ratable polls increased to almost an unlimited extent. I think he said that, and I should think, sir, that would be very likely. Another plan is to base it upon the legal voters. I believe the gentlemen of the committee will agree with me that legal voters are an unknown quantity likewise. I remember a fact here in Concord. Speaking of a certain ward in Concord, it was said, “Of course they can have voters enough, because all the graveyards are in that ward.” I think the matter of who are legal voters is a very difficult one to fix. But, gentlemen, there is a basis that is fixed; there is a fact no man can gainsay; no cheating can be done—and that basis is population. The United States census of 1870 tells us precisely what the population of our state was; what the population of each town was; what the population of each ward was in each city. There is no mistake there, gentlemen; we know just what it means.

Now, Mr. Chairman, the proposition is simply this: For every 800 inhabitants we are to have one representative, for every 2,000 two representatives, every 3,500 three, every 5,000 four, and so on in that ratio;—and I believe I can make it appear that it is fair—fair to both political parties; for, gentlemen, I am aware that, if any proposition passed this convention that was not fair to both political parties, it would not stand the ghost of a show with the people. For that reason, I would not be hypocrite enough to stand here and defend any proposition I did not believe was fair and honest. According to the census, there are 318,300 persons in the state;—dividing it by 393—the number we are entitled to under the present system—I find it gives us a population of 810 to each representative. My proposition is, that we make it 800 for the first representative. Again: I find that the vote of last March was 80,472, and the vote of November was very nearly the same;—dividing the population by this vote, we have 3.91, an average, then, of very near four inhabitants to each vote. Now, then, let us take this as the basis: We have in the first place 800 population, equivalent to 200 voters, to one representative; and then it seems to me that the other calculations on that basis

are fair and equitable, and we should have 2,000 population, 500 voters, for the second representative, and 3,500 population, 875 voters, for the third representative. Of course, certain towns that have less than 800 inhabitants would have to be classed;—the legislature would attend to that matter, either allowing the classed towns to send a representative as a class, or alternating the representation between the towns, allowing each town to send a representative such proportion of the time as its population bears to the aggregate population of the class. A careful computation,—not made by myself, but made by Mr. George E. Jenks—a man of skill in the affairs of the state,—says it would reduce the house about 126 members, leaving 267 members; and that it would cut off almost an equal number from both political parties as they stand in the present house. I would say to the committee that I have a list, likewise prepared by Mr. Jenks, showing the political representation, and suggesting a possible classing of contiguous towns and wards not having the requisite population, and that list is open for the inspection of any gentleman who feels any interest in this matter. I believe, in brief, this proposition is fair, is equitable: it is not going to deprive any political party of its rights, and it is going to make a reduction in this house that I believe the people will accept. Two hundred and sixty-seven members is a strong house; and inasmuch as this basis is unchangeable—something every board of selectmen can understand—every town can see at a glance what the town is entitled to in the way of representation—I suggest that it is a proposition which ought to receive the serious consideration of this committee before being rejected. The United States census is taken once every ten years. Of course, if the state should so decide, a census could be taken oftener—say once in a semi-decade. So, for five years at least, our basis of representation would be fixed and unchangeable; it would be a fair basis, and there could be no equivocation or subterfuge in regard to the representation, and we would not have any members, without a constituency, claiming seats in the house, as we have had in times past. Gentlemen would come here with their rights as well defined as in the British House of Parliament. I trust, gentlemen, the proposition will receive your careful consideration, and, if so, what-



ever disposition is made of it will satisfy me. Of course, expressing myself in favor of it as I do, I hope it will receive your approval.

[The table referred to by Mr. Gallinger, showing the average population for representatives in the several counties, according to his scheme, was as follows: Rockingham, 1,191; Strafford, 1,321; Belknap, 1,321; Carroll, 1,208; Merrimaek, 1,172; Hillsborough, 1,302; Cheshire, 1,155; Sullivan, 1,158; Grafton, 1,180; Coös, 823.]

Mr. Wheeler of Dover. I desire to ask the gentleman from Concord, who has just taken his seat, what he proposes doing with towns of less than 800 inhabitants?

Mr. Page of Haverhill. Pardon me if I inquire of the gentleman from Concord how many towns there will be that will have to be classed—that is, that have less than 800 inhabitants?

Mr. Gallinger. I will reply to Mr. Page first. I will say, I believe there are between eighty and ninety that will have to be classed, making some thirty or forty districts. In answer to the gentleman from Dover, I will say that this scheme contemplates the classing of contiguous small towns; and I have a schedule showing that almost every one of these small towns can be so classed;—but that, I think, can be arranged satisfactorily by the legislature. As before suggested, the legislature could enact, if they saw fit, that each classed town could send a representative alternately, or as many years as they are entitled to by this basis of 800 inhabitants.

Mr. Murray of Canaan. I am in favor of the substantial reduction of the house of representatives. I believe that my constituents desire that, and they will not be satisfied unless something is done here to reduce the house somewhat. Now, in looking over this paper that has been furnished us, I find that there are 85 towns that have got to be classed. Well, now, query, whether, if we should adopt the theory of the gentleman from Concord, we should not, to begin with, array these 85 towns against this proposition, because they will not know where they are going, who they are going to be classed with, or how their political complexion is going

to be changed. I am fearful, Mr. Chairman, that we shall have the united opposition of the 85 towns that are going to be classed, to start with ; and it will be very doubtful whether we could carry the proposition through to reduce this house, with 85 towns against us to begin with. Now, as I said before, I am in favor of a reduction. I am willing to reduce the house to 200, and I am not sure but what the proposition made by the gentleman from Concord [Mr. Sargent] is the best we can adopt,—that is, to establish one hundred representative districts in this state. It seems to me that with one hundred representative districts, this gerrymandering that has been so much talked about could be remedied. I do not know how we could do this if we united contiguous towns. I don't know how we could gerrymander so as to affect the matter very much, one way or another. I am in hopes that this committee will adopt some rule, some system, that will substantially reduce the house. I would be glad to reduce it 200, but I am fearful, if we adopt the proposition of the gentleman from Concord [Mr. Gallinger], that we shall have the 85 towns I spoke of arrayed against us from the start.

Mr. Page of Haverhill. I desire simply to suggest, in reference to the motion made by the gentleman from Concord [Mr. Gallinger], that I agree fully in the basis that he proposes. I believe that the only basis safe to be taken in this committee is the basis of population—that is, a fixed, a determinate quantity—not a determinable quantity, but a quantity that cannot be modified by politicians ; a quantity not subject to the pleasure of selectmen, but one fixed and absolute. On this basis I offered my resolution ;—we only differ as to where we are willing to begin. I do agree with the gentleman from Canaan [Mr. Murray] that the figures upon which the gentleman starts are too large. As he suggested, there are between eighty and ninety—my friend makes eighty-five in his estimate, I make ninety—that would be classed upon his proposition. Upon the proposition that I have submitted, there would be but fifty-eight towns classed. To be sure, there will be some fault found by these small towns—it is their misfortune ; but, as a body, the towns of this state will stand in the new Constitution, amended as I suggest, precisely as they stand to-day, as a body ; there will

be simply exceptional cases. Now this classification of the towns of the state is an extremely difficult matter. The towns are not all contiguous that ought to be classed together, and they are all jealous of interference with their right to be represented in our legislature, as the gentleman from Canaan has suggested; and it will be difficult to obtain their votes to any proposition that is to reduce the number of their representatives in the house, or to take them and class them with other towns. Upon the proposition offered by one, less than twenty towns are to be classed; in another project that is offered, forty towns are classed; on the proposition of the gentleman from Warner, sixty-five; on this, ninety; and in another that was presented, fifty are classed. I submit, gentlemen, that that by itself is a sufficient argument for the proposition. And I desire to state, for the consideration of the members of this committee, that out of thirty-eight states, thirty have the popular representation, in what is called the popular branch, and which is supposed to represent the people, upon their inhabitants. Exceptions exist: for instance, in three of the Southern states it is based on legal voters.

In the state of Vermont their manner is peculiar, as several gentlemen on this floor understand. In the state of Massachusetts they vote substantially as we do here—on the basis of ratable polls—but determine the number of ratable polls in a different manner than any I have heard suggested; but the fact is, in three fourths of the United States the rule for determining the representatives is based on the men, in the first instance—the tax-payers. The popular branch is the branch of the people—in fact, represents its inhabitants; and it seems to me that no other basis of representation is safe, no other basis is sure, and no other basis is consistent with popular principle and popular representation. One gentleman suggests, “Would you have the women of Manchester represented?” I reply, I would have every person represented in this state that pays taxes, or shares the burdens of this government; every person subject to the laws of this state; every person who, for his advantage, or for his disadvantage, is allowed the privileges of, or is subject to the penalties of, the laws of this state. The right of representation is one thing, and the right to vote is another; and

every person in this state—man, woman, or child—all citizens, are entitled to their share of representation through some person on the floor of this house. And that principle, sir, as I suggested, is acknowledged in the government of our country; that principle is acknowledged in the government of three fourths of the states; and if any change is to be made here, that principle should be incorporated in our Constitution. Again: as a matter of fact, and to be shown to persons by figures, the provision, taking the representation of the city of Manchester on the basis of ratable polls, is larger than they would have on a basis of population, were that to be substituted for it. They have a percentage of ratable polls compared to actual population—by the census taken in 1870—of as much as one in three, and there would be but three towns that have a larger proportion: and bear in mind they are towns, not cities. This is supposing that all our political affairs are honestly conducted. It is very convenient, as gentlemen here have suggested, to put names on the back of the list if the basis of representation is the ratable polls. Make your legal voters the basis, and what then? The names on the back are simply transferred and put on its face. The gentlemen who desire to secure an additional representative; who desire mere local power—mere partisan power; those gentlemen who are unscrupulous enough to put on the back of the list names that do not belong there, would not hesitate to put men's names on their list, or to resurrect graveyards to swell the number. There is no limit, and there is no basis to which gentlemen can bring themselves for saving the people, for the honor of this state, for the honor of its politics, except that fixed basis that can neither be changed nor affected by the officers of the town, or men who would come here for political purposes; a basis determined by gentlemen who are outside of local politics, and who fix it outside of all power of change—the basis of population. Again: another gentleman has suggested that ten or five years is too long to wait; that the population may largely increase during that time.

Of those states that are represented on this popular basis, out of twenty-eight, twenty-five take their census but once in ten years; it is taken decennially in each case—sometimes correlatively with the national census, sometimes determined in

another year—taken in 1865, for example, or in 1875. That is frequent enough. Then, sir, every town in this state knows just how many representatives it is entitled to, or that any other town in the state is entitled to. It knows it cannot be defrauded. The towns of Bartlett, Londonderry, and Hart's Location have no incentive to perpetrate frauds to counteract frauds that may be attempted by some other towns. It is determined and fixed, for every town knows then how many representatives its neighbor is entitled to, and it has no incentive to commit fraud, but knows it must do just exactly what is right and what the law compels. I submit that the basis suggested—the basis of population—advocated by my friend from Concord [Mr. Gallinger], and supported by myself, is the only honest, safe, and fair basis that can be established by parties in view of the politics of this state; the only basis that cannot and will not be made subservient to fraud, and conveniently changed outside of this convention, by those men who desire to make the means subservient to their ends. Now, sir, I have simply one suggestion further to add: I wish to repeat what I said at the outset with regard to this ratio of representation. A portion of this loss must fall everywhere. No city or town can hope, if the house be reduced, to hold up to its present representation. There must be some sacrifice somewhere; and when Mr. Smyth of Manchester said that he did not propose to deprive these small towns of their representation, is he willing that the city of Manchester should make the sacrifice the people demand out of its representation? Somebody must do it. There must be concession—political sacrifice; there must be a yielding of political power offered on the part of cities and towns. I know it is useless to talk about the amendment prevailing here and before the people, unless it is about right to each town; and I will ask you, Is it not as unreasonable for us to pass an amendment here that will not reduce each town and city fairly, as it would be if I should tap a man on the shoulder, and say,—“Look here! that proposition of ours is to help the other political party,—will you vote for it?” The people will ask you, they will ask me, how this amendment will affect their town. The reduction proposed on my amendment is 130 representatives. A careful comparison has been made by a gentleman



who has given to it a good deal of study, and the result is, with many of the doubtful towns going democratic instead of all republican as they went last spring, the ratio would be very large; but, either way, it is a fair and honorable matter, so far as the political parties are concerned; and I think that any man, whether democrat or republican, can safely go before the people, and say it is a fair proposition so far. Then, too, the rest of my proposition protects the integrity of the small towns; and taking the cities, there would be cut off ten representatives to which the large cities would not be entitled; but, in the manner of warding, they would not suffer any more loss than the rest of the state. Gentlemen say, "You are mistaken; how can you prove it?" It is a matter of mathematics. In the city of Manchester there is a certain number of ratable polls, sending thirty-two representatives; they are entitled, if voting on a general ticket, to send twenty-eight: they have four more. The same thing prevails in other cities of the state, and they must submit—as patriotic men, they are, I believe, willing to submit—not merely to the reduction of this artificial representation, but they are willing to take a fair reduction upon their representation here. Sir, there are various suggestions I might make here; I do not desire to make them all. I wanted to make some remarks in regard to the matter; and if there are any objections to the propositions I have advanced, I shall be glad to have any member here make any inquiries, or to have them reply to these suggestions.

Mr. Gallinger. I desire simply to propound a question to my friend [Mr. Page] from Haverhill; he propounded one to me, and I wish to propound one to him. I understand him to say, that the amendment offered by me would cut off some ninety small towns, and that they would therefore vote against it.

Mr. Page. The loss falls principally on the large towns and cities. As I suggested before, there are ten to begin with which are entirely artificial, that will be thrown out. In addition to that, the loss substantially falls upon the large towns and cities.

Mr. Gallinger. My further remark is simply this: If, as the gentleman from Canaan [Mr. Murray] suggested, and the gentleman from Haverhill [Mr. Page] repeated, the danger to

the amendment comes from some eighty or ninety small towns that are affected by it, is there not danger of his motion failing that strikes all the rest of the state?

Mr. Page. I judge not. I am taking the expressions of the gentlemen here who represent these large cities: I am taking their expressions here as an earnest of what they will do when they go home.

Mr. Burrows of Plymouth introduced the following amendment:

Strike out Articles 9, 10, and 11, of Part Second, and substitute therefor the following; "There shall be in the legislature of this state a representation of the people, elected biennially, and founded on the principles of equality: every town or place entitled to town privileges, having one hundred and fifty legal voters, of twenty-one years of age and upwards, who shall have resided in this state six months or more immediately preceding the election, may elect one representative; if seven hundred and fifty, may elect two representatives; if fifteen hundred and fifty, may elect three representatives; if twenty-five hundred and fifty, may elect four representatives; and so proceeding, making one thousand such legal voters the mean increasing number for every such additional representative after the third. Such towns or places as have less than one hundred and fifty legal voters may elect a representative such proportion of the time as the number of their legal voters shall bear to one hundred and fifty: Provided, that such towns and places as shall not have one hundred and fifty legal voters, and shall be conveniently located for that object, on application to the legislature, may be classed for the choice of representative—such classed towns not to contain less than one hundred and fifty legal voters in such representative district so formed; and provided further, that all towns, cities, or places, which now are or hereafter may be divided into sections or wards for the choice of representatives, shall, for the purpose of apportioning the number of representatives to the number of legal voters, be considered as undivided; and provided further, that such towns and places as have less than one hundred and fifty legal voters, and are entitled to representation a portion of the time, under this amendment of the

Constitution, shall have the right to elect a representative at the first election under this amendment, and so consecutively for the proportion in a given number of elections."

The committee having resumed the consideration of the proposition of Mr. Gallinger of Concord—

Mr. Lyford of Canterbury. I would like to offer an amendment to the motion offered by the gentleman from Concord [Mr. Gallinger], to substitute six hundred in the place of eight hundred as the basis of the first representative to which towns will be entitled. Mr. Chairman, it seems to me, from the views that have been expressed here in opposition to this motion, that the amendment of the gentleman from Concord cuts off too many small towns. The opposition that is raised here to the motion or amendment offered by the gentleman from Haverhill is, that he does not cut off enough. By the amendment that I have just offered, forty-five towns would lose their representative and be classed in with those towns that are classed at present. I come from one of the towns that will not be affected by any proposition offered here by any gentleman, except, it may be, the district system. The only difficulty it seems in this matter is, to have some amendment adopted that will meet the acceptance of the people after adjournment. The motion offered by the gentleman from Concord, even as amended as I propose, is not my own favorite theory, but if we are to compromise in this matter, as I believe we must, I am willing to favor the proposition as amended; for, if we continue to hold our individual views, we can sit here this week, and another, and then come to no conclusion.

On motion of Mr. Burrows of Plymouth, the proposition of Mr. Gallinger, with amendment thereto, was laid aside for the present.

On motion of Mr. Quarles of Ossipee,

*Ordered*, That the committee rise, report progress, and ask leave to sit again.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Frink, chairman, reported that the committee of the

whole had had under consideration so much of Part Second of the Constitution as relates to the legislative department, without concluding, and asked leave to sit again.

On motion of Mr. Burrows of Plymouth, the convention adjourned.

---

THURSDAY, DECEMBER 14, 1876.

The convention met according to adjournment.

(The president in the chair.)

Prayer was offered by Rev. Mr. Blake of Concord.

The journal was read and approved.

Mr. Farr of Littleton introduced the following amendment :

To Article 9. Strike out all of said article after the words "town privileges" in the fifth line of said article, and insert "six hundred inhabitants, as shown by the next preceding United States census, may elect one representative ; if eighteen hundred inhabitants, two representatives ; and so proceeding in that proportion, making twelve hundred inhabitants the mean increasing number for every additional representative."

And the same was ordered to lie upon the table until that subject was before the convention.

On motion of Mr. Gilman of Nashua, the following resolution was adopted :

*Resolved*, That it is desirable for New Hampshire to adopt a state motto ; and we therefore recommend the adoption of the following sentiment, uttered by one of her most honored sons, as the motto of this state,—“ Liberty and Union, now and forever, one and inseparable,”—and that it be incorporated into the seal of the state.

Mr. M. C. Burleigh of Somersworth introduced the following, which was ordered to lie upon the table until the appropriate subject was before the convention :

Amend Article 9 by striking out all after the word “privi-

leges," and inserting "shall have representatives apportioned among them according to their population, and the number of representatives shall be fixed at three hundred."

Mr. Badger of Concord introduced the following, which was ordered to lie upon the table until the appropriate subject was before the convention.

Amend by striking out Articles 9, 10, and 11, and inserting therefor the following words: "The house of representatives shall consist of not less than —, nor more than — members, chosen by the cities, towns, and places entitled to town representation, according to population as shown by the decennial census of the United States, as follows: The whole population of the state to be divided by the maximum number of representatives; and the quotient arising, by dividing the population of any city, town, or place by the first resulting quotient, shall determine the number of representatives to which any city, town, or place may be entitled: Provided, however, that all cities, towns, and places, which cannot be represented by this process, shall be entitled to representation such a proportion of the time as their respective populations bear to the first resulting quotient; provided, however, that every city, town, and place, however small its population, shall be entitled to representation each year when a new apportionment of the state tax is made."

The following resolution, introduced by Mr. Guppy of Dover, was rejected:

*Resolved*, That a committee, to consist of ten members that have offered propositions for the reduction of the number of representatives, with ten members that have not offered propositions, be appointed by the president, to prepare and present some plan for the consideration of this convention for the reduction of the house; and that they have one hour to prepare and report.

Mr. Gustine of Keene, for the committee to whom was referred the duty of fixing the mileage of the members of the convention, reported the following resolution, which was adopted:



*Resolved*, That each member be allowed the number of miles travel set opposite his name in the following list, and that the secretary be instructed to make up the mileage roll of the convention in accordance therewith:

## ROCKINGHAM COUNTY.

Atkinson .....	Greenleaf Clarke.....	108
Auburn.....	Charles C. Grant.....	64
Brentwood.....	William Morrill.....	88
Chester.....	William Greenough.....	56
Candia.....	Plummer W. Sanborn.....	56
	Levi Bean.....	56
Danville .....	David Griffin.....	116
Derry.....	William W. Poor.....	56
	Rufus Tilton.....	56
Deerfield.....	Samuel C. Danforth.....	66
	Robert C. Bickford.....	66
East Kingston.....	John B. Morrill.....	134
Epping.....	Thomas Folsom.....	74
	David Edgerly.....	74
Exeter.....	John J. Bell.....	140
	William W. Stickney.....	140
	William B. Morrill.....	140
	Gilman Marston.....	140
Fremont.....	George L. Sanborn.....	96
Greenland .....	John S. H. Frink.....	100
Hampstead .....	Albert L. Eastman.....	76
Hampton .....	Joseph Dow.....	132
Hampton Falls.....	Nehemiah P. Cram.....	144
Kensington .....	Jonathan E. Brown.....	116
Kingston .....	John B. Hanson.....	92
Londonderry .....	Alexander M. Corning.....	48
	John Dickey.....	56
Newmarket .....	John J. Robinson.....	104
	Charles H. Smith.....	104
Newcastle.....	William A. Maloon.....	122
Newington.....	Nehemiah Pickering.....	110
Newton.....	Edward P. Wallace.....	134
North Hampton.....	David P. Moulton.....	126
Nottingham.....	Charles H. Batchelder.....	60
Northwood .....	John B. Clarke.....	50
Plaistow.....	Nathaniel H. Clark.....	112
Portsmouth—Ward 1.....	Ichabod Goodwin.....	112
	James W. Emery.....	112
	William H. Y. Hackett.....	112
Ward 2.....	Titus Salter Tredick.....	112
	William H. Hackett.....	112
	Alfred F. Howard.....	112
	Joseph P. Morse.....	112
Ward 3.....	Israel Marden.....	112
Ward 4.....	Daniel Marcy.....	112
	Henry F. Wendell.....	112

Raymond.....	John F. Brown.....	75
Rye.....	David Jenness.....	128
Salem.....	Joseph Webster.....	80
	Levi Clough.....	80
Sandown.....	Ebenezer Hoyt, 2d. ....	74
South Hampton.....	Joseph J. J. Sawyer.....	132
South Newmarket.....	Amos Paul.....	100
Stratham.....	Charles N. Healey.....	100
Windham.....	Horace Berry.....	65

## STRAFFORD COUNTY.

Dover—Ward 1.....	John H. Laighton.....	120
	Asa S. Baker.....	120
Ward 2.....	William S. Stevens.....	120
	Joseph D. Guppy.....	120
	John B. Bruce.....	120
Ward 3.....	Samuel M. Wheeler.....	120
	Zimri S. Wallingford.....	120
	Charles H. Horton.....	120
Ward 4.....	George B. Spaulding.....	120
	John E. Bickford.....	120
	John Clements.....	130
Durham.....	Joshua B. Smith.....	100
Farnington.....	George N. Eastman.....	160
	Jeremy O. Nute.....	160
	John I. Huckins.....	160
Lee.....	Seth W. Woodman.....	110
Madbury.....	Charles R. Meserve.....	100
Middleton.....	Cyrus B. Perkins.....	182
Milton.....	Joseph Plummer.....	166
	Elbridge W. Fox.....	180
New Durham.....	Eben E. Berry.....	170
Rochester.....	Nicholas V. Whitehouse ..	140
	Ebenezer G. Wallace.....	140
	James H. Edgerly.....	138
	Franklin McDuffee.....	138
	Charles E. Jenkins.....	146
Rollinsford.....	John Q. A. Wentworth ..	130
Somersworth.....	George Wm. Burleigh.....	130
	Otis B. Morse.....	134
	Thomas G. Jameson.....	130
	Micajah C. Burleigh.....	130
	True Wm. Woodman.....	134
Strafford.....	Aaron W. Foss.....	78
	Jacob B. Smith.....	150

## BELKNAP COUNTY.

Alton.....	Amos L. Rollins.....	180
	Lafayette Woodman.....	182
Barnstead.....	Samuel A. Hodgdon.....	64
	Charles S. George.....	56
Center Harbor.....	Alonzo Perkins.....	88
Gilford.....	Orastus H. Key.....	60
	Benjamin J. Cole.....	60

Gilford.....	Thomas Weeks.....	60
Gilmanton.....	Charles F. Sargent.....	60
	Henry E. Marsh.....	65
Laconia.....	Thomas J. Whipple.....	52
	Nelson Richardson.....	52
	Jonathan G. Dow.....	68
Meredith.....	Bradbury C. Tuttle.....	78
	Thaddeus S. Moses.....	78
New Hampton.....	George H. Dickerman.....	76
Sanbornton.....	Person C. Shaw.....	52
Tilton.....	Bradbury T. Brown.....	38

## CARROLL COUNTY.

Albany.....	Hiram Mason.....	290
Bartlett.....	George W. M. Pitman.....	300
	Frank George.....	300
Brookfield.....	Dudley C. Colman.....	186
Chatham.....	Osborn Anderson.....	310
Conway.....	Hiram C. Abbott.....	250
	Jeremiah A. Farrington.....	250
Eaton.....	Benjamin F. Wakefield.....	290
Effingham.....	John V. Granville.....	200
Freedom.....	Stephen Danforth.....	210
Hart's Location.....	John O. Cobb.....	204
Jackson.....	Abial L. Eastman.....	320
Madison.....	James J. Merrow.....	240
Moultonborough.....	William H. H. Mason.....	100
Ossipee.....	Sanborn B. Carter.....	190
	Samuel D. Quarles.....	190
Sandwich.....	John H. Plummer.....	100
	Paul Wentworth.....	100
Tamworth.....	Nathaniel Hubbard.....	220
Tuftonborough.....	Marquis DeL. McDuffee.....	216
Wakefield.....	John W. Sanborn.....	170
Wolfeborough.....	Jethro R. Furber.....	206
	Thomas L. Whitton.....	196

## MERRIMACK COUNTY.

Allenstown.....	John Perkins, Jr.....	32
Andover.....	John M. Shirley.....	59
	Henry M. Bosworth.....	50
Boscawen.....	Isaac K. Gage.....	16
Bow.....	Andrew Gault.....	10
Bradford.....	John W. Morse.....	56
Canterbury.....	James O. Lyford.....	30
Chichester.....	Edward Langmaid.....	30
Concord—Ward 1.....	John S. Brown.....	14
	Daniel W. Fox.....	12
Ward 2.....	John L. Tallant.....	10
Ward 3.....	Abijah Hollis.....	6
Ward 4.....	Ai B. Thompson.....	2
	Jacob H. Gallinger.....	2
	Benjamin E. Badger.....	2

Concord—Ward 5.....	Jonathan E. Sargent.....	2
	John Kimball.....	2
	William E. Chandler.....	
Ward 6.....	Joseph Wentworth.....	2
	Benjamin A. Kimball.....	2
	Lewis Downing.....	2
Ward 7.....	William W. Critchett.....	4
	Isaac W. Hammond.....	2
Epsom.....	Paran Philbrick.....	28
Franklin.....	Isaac N. Blodgett.....	36
	David Gilchrist.....	38
	Edward B. S. Sanborn.....	36
Henniker.....	Oliver H. Noyes.....	40
Hill.....	Isaac T. Parker.....	50
Hooksett.....	William F. Head.....	18
Hopkinton.....	John F. Jones.....	24
	John M. Harvey.....	28
Loudon.....	Jeremiah Blake.....	24
	Harris E. Morse.....	24
Newbury.....	Sprague A. Morse.....	60
New London.....	Daniel E. Colby.....	80
Northfield.....	Warren H. Smith.....	40
Pembroke.....	Aaron Whittemore.....	12
	Trueworthy L. Fowler.....	12
Pittsfield.....	Charles T. B. Knowlton.....	50
	Henry L. Robinson.....	46
Salisbury.....	Nathaniel Bean.....	32
Warner.....	Nehemiah G. Ordway.....	40
	William H. Walker.....	36
Webster.....	Edward Buxton.....	48
Wilmot.....	William W. Flanders.....	68

## HILLSBOROUGH COUNTY.

Amherst.....	J. G. Davis.....	92
Antrim.....	Nathan C. Jameson.....	64
Bedford.....	Charles H. Kendall.....	50
Bennington.....	Henry J. Burt.....	60
Brookline.....	Joseph A. Hall.....	96
Deering.....	Freeman Dow.....	58
Francesstown.....	Garvin S. Sleeper.....	80
Goffstown.....	Alfred Poor.....	48
	Jabez B. Pattee.....	56
Greenfield.....	David Starrett.....	124
Greenville.....	James L. Chamberlain.....	160
Hancock.....	John H. Felch.....	132
Hillsborough.....	Cornelius Cooledge.....	64
	Brooks K. Webber.....	50
Hollis.....	John Woods.....	84
Hudson.....	Dana Sargent.....	74
Litchfield.....	Samuel Chase.....	60
Manchester—Ward 1.....	George C. Gilmore.....	36
	John W. Severance.....	36
	Albert Maxfield.....	36

Manchester—Ward 2.....	Frederick Smyth.....	36
	Arthur M. Eastman.....	36
Ward 3.....	Daniel Clark.....	34
	James F. Briggs.....	36
	Charles H. Bartlett.....	36
	Hiram K. Slayton.....	36
	Charles E. Balch.....	36
Ward 4.....	Nathan Parker.....	36
	Bradbury P. Cilley.....	36
	Waterman Smith.....	36
	Thomas C. Cheney.....	36
Ward 5.....	Samuel P. Jackson.....	34
	Patrick A. Devine.....	36
	James Sullivan.....	36
	Thomas Connolly.....	36
	Charles A. O'Connor.....	36
	William F. Byrnes.....	34
Ward 6.....	John P. Moore.....	40
	George Holbrook.....	36
	Jonathan Y. McQuesten....	36
Ward 7.....	Marshall P. Hall.....	36
	Joseph W. Bean.....	36
Ward 8.....	Allen N. Clapp.....	36
	Charles K. Walker.....	36
Merrimack.....	Ward Parker.....	60
Milford.....	Isaac P. Abbott.....	96
	Charles F. Fiske.....	96
	Joseph Crosby.....	96
Mont Vernon.....	Charles J. Smith.....	102
Nashua—Ward 1.....	George A. Ramsdell.....	72
Ward 2.....	John G. Kimball.....	72
Ward 3.....	Abi A. Saunders.....	72
Ward 4.....	Edward Spalding.....	72
Ward 5.....	Ross C. Duffy.....	72
Ward 6.....	John Tilton.....	72
	Cornelius V. Dearborn....	72
	Henry Parkinson.....	72
Ward 7.....	J. P. S. Otterson.....	72
	Horace W. Gilman.....	72
Ward 8.....	Jonathan Smothers.....	80
New Boston.....	Henry Hutchinson.....	60
New Ipswich.....	Henry O. Preston.....	166
Pelham.....	F. M. Woodbury.....	112
Peterborough.....	Albert S. Scott.....	136
	Ezra M. Smith.....	136
Sharon.....	Derostus P. Emory.....	204
Temple.....	William P. Bacon.....	156
Weare.....	Alonzo H. Wood.....	72
	Oliver D. Sawyer.....	72
Wilton.....	George S. Neville.....	102
	William A. Jones.....	102
Windsor.....	Francis G. Dresser.....	66



## CHESHIRE COUNTY.

Alstead.....	Cyrus K. Vilas.....	120
Chesterfield.....	Jay Jackson.....	224
Dublin.....	Henry C. Piper.....	146
Fitzwilliam.....	John M. Parker.....	180
Gilsum.....	Daniel W. Bill.....	234
Harrisville.....	Samuel D. Bemis.....	230
Hinsdale.....	Charles J. Amidon.....	264
	Henry M. Jones.....	260
Jaffrey.....	Benjamin Pierce.....	200
Keene—Ward 1.....	Edward Gustine.....	220
	Silas Hardy.....	220
Ward 2.....	Thomas E. Hatch.....	220
Ward 3.....	Elbridge Clarke.....	220
	Leonard Wellington.....	220
Ward 4.....	Francis A. Faulkner.....	220
Ward 5.....	Henry S. Martin.....	220
Marlow.....	John Q. Jones.....	160
Marlborough.....	Levi A. Fuller.....	208
Nelson.....	Josiah H. Melville.....	160
Rindge.....	Zebulon Converse.....	196
Richmond.....	Nathan F. Newell.....	220
Roxbury.....	Brigham Nims.....	228
Stoddard.....	Ephraim Stevens.....	160
Sullivan.....	Asa E. Wilson.....	172
Surry.....	George K. Harvey.....	236
Swanzy.....	Benjamin F. Lombard.....	236
	Stephen Faulkner.....	236
Troy.....	David W. Farrar.....	200
Walpole.....	David Buffum.....	256
	Charles Fisher.....	256
Westmoreland.....	Willard W. Pierce.....	244
Winchester.....	Ellery Albee.....	246
	Sidney M. Morse.....	246

## SULLIVAN COUNTY.

Acworth.....	Charles K. Brooks.....	138
Charlestown.....	Benjamin Labaree.....	124
	Abel Hunt.....	124
Claremont.....	Nathaniel Tolles.....	108
	John S. Walker.....	108
	George H. Stowell.....	108
	Albert F. Winn.....	108
	Stephen F. Rossiter.....	108
Cornish.....	Chester Pike.....	166
Croydon.....	Pliny Hall.....	102
Goshen.....	Hiram Sholes.....	90
Grantham.....	Thomas B. Alexander.....	154
Langdon.....	William P. Wilson.....	136
Lempster.....	Cyrus H. Hodgman.....	114
Newport.....	Levi W. Barton.....	88
	Dexter Richards.....	88
	John B. Cooper.....	88

Plainfield.....	Fred Moulton.....	140
Springfield.....	Daniel N. Adams.....	90
Sunapee.....	William C. Sturoc.....	80
Unity.....	Joseph M. Perkins.....	126
Washington.....	George W. Carr.....	68

GRAFTON COUNTY.

Alexandria.....	Orrin S. Gale.....	78
Ashland.....	Barnett Hughes.....	96
Bath.....	Solomon S. Carbee.....	192
Benton.....	George W. Mann.....	206
Bethlehem.....	John G. Sinclair.....	236
	Willis Wilder.....	252
Bridgewater.....	Nathaniel Batchelder.....	100
Bristol.....	William A. Beckford.....	62
	Marshall W. White.....	62
Campton.....	George H. Adams.....	110
Canaan.....	Charles Day.....	106
	George W. Murray.....	102
Dorchester.....	Abner Blodgett.....	120
Enfield.....	Everett B. Huse.....	116
	James W. Johnson.....	124
Franconia.....	David H. Applebee.....	234
Grafton.....	Alanson Walker.....	80
Groton.....	Andrew Remick.....	90
Hanover.....	Elijah B. Hurlbutt.....	150
	Henry E. Parker.....	150
Haverhill.....	Samuel B. Page.....	184
	Joseph Powers.....	174
Hebron.....	William C. Ross.....	80
Holderness.....	Oliver H. P. Craig.....	100
Landaff.....	John C. Atwood.....	216
Lebanon.....	Albert M. Shaw.....	130
	John L. Spring.....	130
	Francis A. Cushman.....	130
	Nathan B. Stearns.....	134
Lisbon.....	Joseph Parker.....	206
	Michael M. Stevens.....	206
Littleton.....	Harry Bingham.....	226
	Cyrus Eastman.....	226
	John Farr.....	230
Lyme.....	George F. Sawtell.....	176
Lyman.....	Herbert B. Moulton.....	216
Monroe.....	Larkin Hastings.....	198
Orange.....	Ora H. Heath.....	100
Orford.....	Charles W. Pierce.....	198
Piermont.....	Aaron P. Gould.....	200
Plymouth.....	Joseph Burrows.....	102
	Nathan H. Weeks.....	102
Thornton.....	Albert Lyford.....	120
Warren.....	George F. Putnam.....	140
Waterville.....	Merrill Greeley.....	130
Wentworth.....	Jeremiah Blodgett.....	132
Woodstock & Lincoln.....	Arthur Hunt.....	150

## COÖS COUNTY.

Berlin.....	Horace C. Sawyer.....	364
Carroll.....	Charles Pillsbury.....	268
Clarksville.....	Josiah Young.....	370
Colebrook.....	Hasen Bedel.....	340
	Frank Aldrich.....	340
Columbia.....	Samuel M. Harvey.....	330
Dalton.....	Bert A. Taylor.....	264
Dummer.....	Isaac C. Wight.....	400
Errol.....	John Akers.....	386
Gorham.....	Benjamin F. Howard.....	400
Jefferson.....	Nathan R. Perkins.....	290
Lancaster.....	Jacob Benton.....	270
	William Burns.....	270
Milan.....	Adams Twitchell.....	330
Northumberland.....	Robert Atkinson.....	288
Pittsburg.....	David Blanchard.....	348
Randolph.....	George Wood.....	404
Shelburne.....	Hiram T. Cummings.....	400
Stark.....	Joseph A. Pike.....	310
Stewartstown.....	Edwin W. Drew.....	350
Stratford.....	George R. Eaton.....	312
Whitefield.....	Alson L. Brown.....	258
	Moses H. Gordon.....	248

On motion of Mr. Morse of Portsmouth, the convention resolved itself into committee of the whole on so much of Part Second of the Constitution as relates to the legislative department.

## IN COMMITTEE OF THE WHOLE.

(Mr. W. H. Y. Hackett of Portsmouth in the chair.)

The proposition of Mr. Ordway of Warner being before the committee—

Mr. Ordway. At the time I introduced my amendments, the gentlemen of the committee will remember that we had not received the *Manual* which the convention had ordered; and, in fact, it was a difficult thing to find one in the city, even of last year, or of any preceding year in any number,—so I was unable to procure the proper figures. Since that time I have taken considerable pains to ascertain the exact effect of these amendments, and I now propose to address myself strictly to my amendments and their effect. It will be remembered by the members of this committee, that at the time I offered these amendments I stated that it was my belief that we ought to

confine ourselves to the amendments to the Constitution that would leave the political complexion of the house of representatives where we found it.

Mr. Wheeler of Dover. In order that the committee may fully understand the proposition of the gentleman from Warner, I move that this article, as proposed to be amended, be read.

The clerk then read the article as proposed to be amended by the gentleman from Warner.

Mr. Ordway. When I stopped, I adverted to the fact that this committee would not and ought not to take any action that would change the political complexion of the house of representatives; and that, in any reduction they might make, that fact ought to be kept in mind. Now, in order to arrive at a just and exact proposition that will accomplish that result, I have spent considerable time to ascertain what number of representatives it would take from the small towns having one representative their just proportion; what number it would take from middle towns having two representatives their just proportion; and what number it would take from towns having three, four, five, six, seven, and eight representatives their just proportion; and I have arrived at the conclusion that a basis of 200 ratable polls, or 150 legal voters, makes very little difference: the result would be the same in the number of towns that would have to be classed. It would reduce the house of representatives one third. It would take one third of the members out, leaving the political complexion of the house unchanged—within two or three votes, perhaps less than that—so that each town would know exactly where it stood and what had been done.

In the table which I have prepared, I have taken the vote of 1875, because that shows a closer vote for representatives than the one of 1876, and have arrived at this result: That the house would be reduced about 125 members—the republicans having about 122 members and the democrats about 106 members, with 48 towns to class. Dividing those towns, and assuming that they will give 21 representatives, and that the democrats would get 14 and the republicans 7—because that year those small towns went more generally democratic than they did last year—it would have produced in that year 129 republicans and 120

democrats. I believe the majority in the house that year was 10 or 11, perhaps 12. My proposition was this,—that the complexion of the house would not be changed by taking part of the representation from a town;—if a town was republican and had two representatives, the complexion of that town would not be changed by taking away one of them. I will not dwell on the figures of 1875, and only allude to them to show that the same result followed in 1876. In 1876 the house of representatives numbered 390—211 republicans and 179 democrats, leaving a majority of 32. Taking the vote of 1876, I find that Belknap county had 7 republicans and 11 democrats, and under this plan that county would lose 7 representatives, and one town probably to be classed. Carroll county had 7 republicans and 16 democrats. Under my plan it would lose 9 representatives, and seven towns would have to be classed, with only two towns taken out by the taking-away process; and the result without classing would be, that the republicans would have 3 and the democrats 9, with 7 towns classed. Cheshire county had 23 republicans and 10 democrats. Under my plan the loss would be 12, with 6 towns classed, giving the republicans 15 and the democrats 6. Coös county had 10 republicans and 13 democrats, and under my system would lose 10, with 8 towns classed, and only 2 towns dropped out; and those 8 towns would produce a sufficient number of votes to bring that county's representation, probably, nearly as it was before. Grafton county had 23 republicans to 25 democrats. By my plan 22 members would be dropped out, 10 towns classed, leaving 12 dropped out by reduction, and a proportion of 13 democrats to 13 republicans—not disturbing the political complexion at all. Hillsborough county stood 38 republicans to 40 democrats. By my proposition it would lose 30, and its political complexion would not be materially changed, as the proportion would stand 22 republicans to 23 democrats, with 8 towns to class; and the classing should be made such as to produce that result. Merrimack county stood 26 republicans to 24 democrats, and by my method would lose 14—possibly but 13—leaving the proportion 18 republicans to 20 democrats, with one town to class, thus preserving the political complexion of that county. Rockingham county had 33 republicans to 24 democrats, with the town of



Gosport making 25 democrats. By my arrangement it would lose by reduction 23 members, with 9 towns to class; and the proportion would be 21 republicans to 13 democrats, which the towns to class would make equal. Strafford county having 28 republicans and 9 democrats, under my amendment would lose 15, with two towns to class, leaving the proportion 16 republicans to 6 democrats, and preserving the original proportion. Sullivan county having 16 republicans and 6 democrats, under my system would lose 7 members, with three towns to class, leaving the proportion 10 republicans to 5 democrats.

The result would be 127 republicans to 109 democrats, or 18 republican majority, to 211 republicans to 179 democrats under the present system, and a reduction of the house 149 members—about one third, with 55 towns to class, sending 25 representatives—12 republicans and 13 democrats—making the grand result, under my plan, 139 republicans to 122 democrats, or 261 in all;—leaving a majority of 17 republicans against a majority of 32 the present year. Now, that leaves, apparently, two or three votes against the republicans. I stand here as a republican, and say that if we can get it within two or three, I am perfectly willing that it should take place; but I want to go before my people with some proposition whereby I can tell them exactly what it does for my town. I don't want to go before them with any other proposition. I object, gentlemen, to the plan of taking population as the basis of representation. I am well aware that it is a very nice thing for our cities, and I am not surprised that my friend from Concord [Mr. Gallinger] should advocate it; I am not surprised that any man from any large city should advocate it. But I am from a town that, unfortunately—like a good many country towns—has fallen off somewhat in population, and I do not know but that it will continue to fall off; but the small towns—the agricultural towns—have more voters in proportion than the cities;—then why should we depart from the rule adopted by our forefathers, and do away with ratable polls or legal voters as a basis of representation, when it is evident that we shall strike out the country towns to build up the representation of the cities? I do not wish to make this an issue; but I do want to say to my country friends that it is very evident that they should look to their interests, and procure as

much power as they can for their people, and advocate this amendment. It may be just; it may be unjust. If every town had large manufactories and a correspondingly large population, in most cases the proportion of legal voters would be as one to two, or one to three; and great injustice would be done to those towns by adopting the basis of population, and departing from the basis upon which we have always been represented in the house.

Now, I wish to say one word in regard to these towns that are to be classed. I know that it takes some little courage for any man to stand here upon this floor and say that he is willing to strike out the small towns. I fully sympathize with my friends who have pleaded before this committee, and said they wanted to see the farmers' sons come down here,—and I fully sympathize with my friend who wished that; but I do say, that for every farmer's boy that comes up here he would have ten or a dozen of his friends from the large cities. We know that we all feel, as I know he feels, a great interest in the farmers' sons of this state; but we know also that he feels so deep an interest in having the city of Manchester have an interest on this floor, that he will be content to remain with thirty-one or two representatives on this floor, and allow the small towns to have one apiece. Now, I want to say just this with reference to the small towns: You have got to do something; you cannot cut this house down and leave every town as it is now; it is impossible. Now, where shall we take them from? Allowing 55 classed towns to produce 25 members, I have taken 30 from the small towns. Well, my friends from the small towns say, "You have taken too much off—more than one half." I believe we have taken a large number, but, unfortunately, these small towns represent small constituencies, and I believe that if these towns were properly classed, and two of them were made into one, the members could come up here alternately—the member from one town coming one session, and the other the next. I believe that members would feel much more manhood and strength to represent a solid constituency, and come every other year, than they would to come every year, and have a dozen men talking around, "We must cut off these small towns." We cut off Gosport at the last session of the legislature, and I did not

hear my friend from Exeter [Mr. Marston] say one word against it; indeed, if I recollect right, he voted for it. There was a talk of cutting off Winchester. If I remember right, there was a talk of taking off some towns in Cheshire county.

Now, I say to my friends in the small towns, I would do nothing unjust against you, but if there is to be a reduction in the house, it must affect the small towns. In that respect, I would say, that it seems to me that the small towns had better at this time look this matter squarely in the face, and see if they cannot come in alternate sessions from the small towns, and have a representation and constituency behind them, so that no member on this floor will talk of taking them and classing them with some other towns. They do not know what town they will be classed with, or whether they will be taken out entirely. It is a matter that ought to be considered here now: for this purpose I recommend to the small towns—to their representatives—to consider. I have taken thirty members from the small towns, by classing them with each other. If you run through the list which I have here—I have not time to go through it all—you will see that it gives a list of the legal votes cast for both candidates in 1875, and I have the ratable polls as returned in this *Manual* for 1876; I have also the totals for 1875. I have the numbers taken from the record and from the *Manual*, and there cannot be any mistake about these figures. I say, if you run through these figures, you will see that the towns having two or three members, furnish seventy-five members of this reduction. You have taken from these small towns that furnish but one member, thirty members; and the towns that furnish two or three members each, furnish the next seventy-five; and the balance—twenty-four—making up the remainder, come from the large towns and wards in this state.

Now, this is the simplest proceeding in the world. You can take a larger house and have a larger number of members, and a smaller house and make the number smaller; but I warn you, gentlemen, on both sides of this house, democrats and republicans, that if you want to preserve the political status as it is—as was intimated when we first came here—there is no way you can leave this, unless you take it off evenly, or leave it as it is,—in other words, cut off your members evenly. In regard

to the justice of the matter, I have to say, I believe the people of the state want a reduction of the house of representatives. I believe that that was one of the reasons why they have called this convention. I believe you have decided to reduce the house,—and I will not argue that question,—you have decided that; and there is another thing you have decided,—that you want to get it done in a safe manner, and in a manner that will be accepted by the people. Now, if you vote on a proposition and give it to the people, you will have to tell them, “That is my judgment,” or, the figures of Mr. Jenks—and I know that he is one of the best figurers in this state. I have great confidence in these figures of Dr. Gallinger’s; but I do not want to have any uncertainty, and I do not want to vote for any reduction of members of this house unless I know we are getting something founded on some basis by which we know whether we are not cheated, or whether the other side is not cheated, when we get there. Now, that is my programme; and I say I would not vote—would not go to my people and say I voted—on a proposition because I thought it equitable, because I thought it might work so-and-so, and yet not be able to tell what advantage it is to my town. They did not send me here for that purpose. They sent me here to favor such amendments, so far as I could, as in my judgment were necessary, and that they could vote for.

One word in regard to the effect upon cities and large towns: I think that my proposition, with all deference to my friend from Manchester [Mr. Gilmore]—and I know he is a very careful man—I know he works carefully for the interests of his people;—I will say, his proposition will take more members from the city of Manchester than mine will. My proposition has this advantage: It takes men from all parts of the state; and you will, in classing those fifty-five towns, do justice to that party which figures may seem to have wronged in computation; and I say now, and I defy any man to disprove it, that there is not any possible chance for deception about this matter,—there is not any way by which there can be any deception, because I have taken these two years, and I have gone through with them, and I will go through with them with any committee, and the list comes out by two or three, politically,



as it now stands. Take any principle that will cut off small towns—take the five hundred, and I take this number. Why? Because four hundred will stretch into a large number of towns. Take four hundred and fifty, and you make a number which a great many towns will stretch into; but when you come to stretch the list from three hundred and fifty to five hundred, they cannot do it, and therefore five hundred is the only sum that you would make, after consideration, the first reduction in; and I say to my friend, if you so define ratable polls, I believe that is the best thing to be done, because it is about as difficult to tell legal voters as ratable polls. Define ratable polls, and I think you will get three hundred and seventy-five or four hundred, and you do not reduce your house to amount to anything. Now if you gentlemen do not want to reduce this house, I am perfectly willing to let it stand as it is; but if you mean what you say, and you want to reduce this house as you have indicated—about one third—you thereby make a great saving to the state, by biennial sessions and the reduction of this house. As shown by the report of the treasurer last year, I think the cost of the legislature was some \$55,000 to \$58,000, and probably, when you pay all the bills, it will amount to \$60,000. Take off one third—take off one quarter if you increase the senate—and you have reduced at least \$75,000, by reduction of the house and by biennial sessions, and saved to the people of this state every two years enough to pay the cost of this convention, and another one like it if you wish. Now, I apprehend that the people of this state, while not penurious or mean, do want to save \$75,000. I apprehend that if you go to them and say, “This amendment will give you peace and quiet for at least one of two years, and will save you \$75,000 for the first two years, and so on for all time,” I think you will find it will have great weight with these men, these voters, men interested in the subject, when they come up to vote on the proposition; and with all due deference to the judgment of others, I will vote for any other proposition, for any amendment any member will present, and bring his figures in here,—bring his work with him as I have done. I can tell you how every town will stand in the state by these figures. If any member of this convention will come in and



give me figures, or show a better plan to produce this result, I am perfectly willing to advocate his plan. [A call was made upon Mr. Ordway to read his figures.] The paper will be too long to read; I have got the aggregate, and I will answer any questions any man will ask. I will say this: It does not make any difference to any towns whether you make the basis fifty legal voters or two hundred ratable polls; the result will be substantially the same, and I am not particular which course you adopt. I made my first computation on towns casting one hundred and fifty votes at an election when one of the largest votes was ever polled in New Hampshire—in 1875. Now, gentleman, I have already occupied too much of your time; but this proposition is one of great importance. [A voice, "How many does it cut off from the town of Warner?"] It cuts off one from the town of Warner. [A voice, "Which member does it cut off?"] In answer, I will refer the gentleman to the record of last March, and to the vote electing delegates to this convention. I have allowed the loss to fall upon the republican party in Warner, and I think I was justified by the two last votes in doing so. I wish to say, before taking my seat, what I intended to have said before closing, that I propose to ask, after this has been discussed as much as is desirable, that it be laid aside, and that other propositions be discussed. I do not wish to force any proposition upon this committee until such time as the committee is ready to make a decision.

Mr. Burns of Lancaster. I will occupy the time of the committee but a very few minutes. As has been remarked by the gentleman from Warner [Mr. Ordway], this committee have expressed themselves very unanimously in favor of a reduction of the house of representatives, and I believe that the constituents of almost every member of this convention would be decidedly in favor of that. Now, as a general proposition, the people favor that—almost all the voters of the state of New Hampshire; but when you come to details there is a difference of opinion, and, though I am decidedly in favor of moderately reducing the house if it can be done, I have had great doubt, and have now, whether we can agree here in committee upon any proposition for a material reduction. I doubt about our

being able to agree upon any proposition which shall be ratified by the people. If we can do so, I am willing to have discussion to almost any extent, and make the attempt; and when I express this doubt, I wish it to be distinctly understood that I am in favor of something of the kind as strongly as any member of this committee, if we can agree upon the details of some proposition.

Now, it seems to me—I don't say that the gentleman from Warner [Mr. Ordway] looks at it in this light—but it seems to me that he is somewhat prejudiced; we all are. We have party feeling, most of us have strong party feeling, and we may well look at the effect of this feeling when we have it. As far as my own county is concerned, on the face of that proposition it looks very fair indeed; and the remark of the gentleman was, that the classed towns—which would be very numerous in my county, the towns being small—that they could be classed in a way to make the representatives about as they are now—about as they were last June. I admit that to be true; but *will* they be so classed? They can be, gentlemen. In looking over these towns, I can see a way in which these towns might be classed—*might be*—so that in a county where we cast about 3,500 votes, and one political party has a majority of 500 in that county, I can see how these small towns might be classed in a way to give the other political party a majority of the representatives. It is very easily fixed. Now, I allude to this merely to show the difficulty of this proposition in connection with any party; for all men that will look at it, will look at it in that way to a very great extent. Now, I have but one further remark to make,—and I know what the feeling of gentlemen residing in the large cities is; I know what their feelings are very well; but I state it here,—I believe that in order to carry any proposition whatever before the people, the reduction has got to be made largely in these large cities; and I claim that it is fair, just, and right that it should be made there. Now look at it for one moment: I will ask, gentlemen of this committee, suppose that the city of Manchester increase so that they will have a larger population, more ratable polls, than all the rest of this state, I ask you would it then be fair and right that you should put into the hands of that one city the control of the

whole state of New Hampshire? I will ask my republican friends. New York city is rapidly increasing, and in a short time the population of that city may be greater than all the rest of the great state of New York. I will ask you, gentlemen, when that population increases to that extent, would you claim it to be fair and right that representation should be based upon ratable polls? would you put the city of New York in control of the entire state—the absolute control? Now, would not that be the practical operation? I allude to this to show that the reduction must come mainly, not wholly—I do not ask for that—but mainly from the large cities and towns. There are a great number of small towns, covering a great extent of territory. You put them absolutely under the control of one, two, or three large cities, and I say they never will agree to it.

Mr. Burrows of Plymouth. I seems to me that the proposition will be a fair one, and I hope that my amendment to the proposition will be adopted.

Mr. Benton of Lancaster. Every man that comes to discuss this matter talks about the equal rights of all; that every man is entitled to his equal voice and equal influence in the government. We should be governed by the highest principles in our deliberations. Most of the delegates before me are men whose heads are whitened by the frosts of many winters, and who will not linger here many years, and they should aim to act independently of partisan considerations.

Mr. Murray of Canaan. I have presented to this committee no proposition, or, rather, amendment, to this article. I have had no pet scheme for altering this article in reference to the house of representatives. Gentlemen, when I came here to this convention, I had considered some three propositions: First, that it might be as well to have the state divided into a certain number of districts—say 100; another was, to have each senatorial district send a certain number of representatives, to be nominated and elected as we nominate and elect our senators; another proposition was, to have this convention district the state, as they have in Maine,—that is, to go on and district the whole state, putting the towns together, and where there

was a town that was entitled by its population to one, two, or three, or more representatives, give that town or city so many representatives, and then class the different towns together. That is the way that I understand it has been done in Maine, and that it is so established in the Constitution of the state. These were the three propositions that I had somewhat considered before I came into this convention; but since the arguments commenced, and since hearing the argument of the gentleman from Concord [Mr. Gallinger], I have come to the conclusion that the best method that we can adopt here as a basis of representation is the population of the state. I like the idea of having the popular branch of the legislature based upon the population. The popular branch at Washington is based upon the population, and I understand that in the state of New York the representation in the popular branch is based upon the population; and if members of this committee will look on page seventy-one of the *Hand Book*, they will find that, in a foot-note there, it reads as follows: "Representation in both branches of the legislature is based upon population in all states but six, as follows: Indiana, the number of white males; Kentucky, Massachusetts, Mississippi, and Tennessee, the number of qualified voters; New Hampshire, the number of ratable polls for the house, and direct taxes for the senate." You will find that there are twenty-eight states based upon population, and I believe that that is a fair way to solve this problem. What we want is this: If the popular vote of New Hampshire is republican, we want a republican house of representatives; if the popular vote of this state is democratic, let us have a democratic house. I think that such a proposition would be adopted by the people. Let this house be republican if the popular vote be republican, or let it be democratic if the popular vote be democratic,—for I believe in the old democratic doctrine of letting the majority rule; and if we can devise some plan that will carry out that idea on the basis of population, I should like it. I am fully in favor of having the population made the basis.

Mr. Burrows of Plymouth moved to amend the amendment by striking out the words "two hundred ratable polls," and inserting "one hundred and fifty legal voters."

Mr. Sawtell of Lyme introduced the following resolution, and asked for an immediate vote upon the same :

The chair ruled it out of order at the present time.

*Resolved*, That the basis for reducing the house of representatives be fixed either on population or on legal voters.

Mr. Hatch of Keene introduced the following resolution :

*Resolved*, That the committee decide upon the basis of representation to be adopted, in the following manner, to wit : That all members in favor of basing the representation of towns upon ratable polls shall rise, stand, and be counted ; after which, all those in favor of basing the representation upon legal voters shall rise and be counted ; then, those in favor of basing the representation upon the population shall rise and be counted. The proposition having the greatest number of votes in its favor shall be considered in detail.

Mr. Hatch. Some gentlemen seem to think that we are wandering, and not coming to any conclusion. It strikes me that we are doing well and coming to a point, and I think that I can see the point to which we are coming. I introduced a resolution the other day in regard to the districts, and I believe that that is the fairest and best way to do it ; and I have not seen one member, in or out of the convention, but what agrees with me that that is the easiest method. It has been represented by a great many gentlemen that they do not believe that the people would favor it. If it contemplates too great a change, I do not want to force it upon the convention. I see two reasons why this change might not be favorably received if it were made : first, the people would not understand it—it would be too great a change ; secondly, it depends upon how these districts are to be made. Now, because of the opposition that one party would naturally make to the other, I think it is very possible, and perhaps probable, that a plan of that kind would fail if it should go to the people. I do not think that we can gain anything by substituting legal voters for ratable polls. I am in favor of fixing upon the population—on some basis to be settled by this committee. But let us aim at some definite basis, and either have the representation upon the legal voters,



or ratable polls. I think only one or the other of these methods will be acceptable to the people.

Mr. Briggs of Manchester. If the committee will indulge me for a few minutes, I should like to say a few words right here. I suppose we have met here to reduce the number of members of this house of representatives. That is one object. Nearly every member of the convention has a plan peculiarly his own, and he honestly believes that it is the most judicious thing that the state can do to adopt his plan. They have been discussed, upon the one hand and the other, ably, and in a very learned manner; but it seems to me, if the work of this convention is to be a success, that certain things have been intimated or suggested here in the discussion which are not at all liable to produce that result. It has been continually said of the cities, particularly of Manchester, that they are overrepresented in this convention, and in the house of representatives, upon the present basis of representation. Propositions have been made with a view to strike out from the large places, and leave the smaller towns undisturbed. I do not understand that there is any gentleman, either from Manchester, or any other city or large town, who complains of that result—that is, if they are cut down. I think there is some mistake in relation to whether she has more than her share of representation upon the floor of this convention. I think that there should be an equal representation upon this floor, and it seems to me that the way most consistent with the fundamental principles upon which the state rests is upon the basis of representation upon the population of the state. They say Manchester has a larger representation, when we have twenty-six, than we are entitled to. We pay into the state treasury one tenth part of the state tax. Now, if we were represented according to property, we should have thirty-nine members instead of twenty-six. It has been the universal talk here that there is a great public demand for a change in the Constitution. There is a demand, to some extent, and I wish to say, notwithstanding that, that the people of New Hampshire have as strong an attachment for this old instrument as I have. Unless the action of this convention is such as to improve upon that instrument, it is not to meet with the approbation of the people. Whatever we do

must be done with the greatest care and with the greatest wisdom, and it must be done with the greatest fairness and greatest equality, not only to the small towns, but also to the large towns and cities.

Mr. Ordway of Warner. I wish to say just one word in reply to the suggestion of the gentleman from Manchester [Mr. Briggs] that the city of Manchester pays a very large tax. The city of New York has a very large portion of the wealth of the state. Now, if the doctrine were applied to the legislature of New York, that the people were to be represented wholly upon their wealth and population in the city of New York, the same result would follow that follows in the state on the popular vote. The theory of amending this constitution is, that the voters and the ratable polls were to be represented in the house, and the property in the senate. I make no suggestion that the large towns have not their rights in this matter.

Mr. Clark of Manchester. I agree with the statement of the gentleman from Keene, that it is very evident that this convention is coming to the question whether we shall decide upon ratable polls or upon population. I confess an attachment to the plan devised by the fathers. I will not say they builded better than they knew, but they builded wisely and well. If we adopt the theory of population, the wisest plan, in my judgment, is the district system, because it makes every district equal, and there will be no large fractions of population which will not be represented; but if you take the population in the towns, there will be very large portions that cannot be represented. Now, if you will take the pamphlet which most of you have, and turn to the first page, to the town of Greenland,—and I take that because it comes nearer to the starting-point,—it has 695 souls of persons within its boundaries. It would be entitled to a representative, upon the theory of some of the propositions. If you turn to the town of Deerfield, you will find a population of 1,768; but the theory of population will give Greenland exactly the same power in the representation as the town of Deerfield, which has nearly three times its population; and if that theory be adopted, taking 695 from 1,768, you will have very nearly 1,100 people that are not counted in the basis of representation. Then, if you will look through this list, you

will find there are about fifty large towns and cities in exactly that position. And I will undertake to say, judging from what I know of individuals, that you will find all those towns against your proposition,—every one of them. Now, we complain of the expense of a large house, and yet, if you will go and put the proposition to each one of these towns, whether they would rather pay the expense as they now stand or lose their representative, they will say, “We will pay the expense, and pay it cheerfully.” It is one thing to make a new Constitution, and it is another thing to alter an old one under which the people are existing; and the least we change it, in my judgment, the better. I should like the district system; I think it is fair, and equal, and just, if you go upon population. I doubt, as other gentlemen do, whether the people of the state are prepared for it; but I am prepared to say here, gentlemen, that in my judgment it would not be wise to send any proposition on this subject to the people of New Hampshire, that does not command two thirds of the votes of this convention; because if we, with our deliberations and our discussions and our experience, cannot give our consent by a two-thirds vote to any one proposition, you may be assured the people will not do it. We may as well leave the Constitution as it is. It is my desire that we act as wisely and harmoniously as possible. I have no fault to find with any gentleman that has engaged in discussion here, or made any remarks to this convention—far be it from me to have any—but let us, if we can, determine what is wise to be done, and if we cannot find anything wiser than our fathers did, let our fathers’ work alone, and let us go home.

On motion of Mr. M. C. Burleigh of Somersworth, the resolution of the gentleman from Keene was laid aside for the present.

On motion of Mr. Bruce of Dover,

*Ordered*, That the committee rise, report progress, and ask leave to sit again.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Hackett, chairman, reported that the committee of the whole had had under consideration so much of the Constitu-

tion as relates to the legislative department, without concluding, and asked leave to sit again.

On motion of Mr. Shaw of Lebanon, the convention adjourned.

#### AFTERNOON.

The convention met according to adjournment.

On motion of Mr. M. C. Burleigh of Somersworth, the convention resolved itself into committee of the whole, on so much of Part Second of the Constitution as relates to the general court.

#### IN COMMITTEE OF THE WHOLE.

(Mr. Emery of Portsmouth in the chair.)

On motion of Mr. M. C. Burleigh of Somersworth, the proposition introduced by him this morning was taken from the table and considered.

Mr. M. C. Burleigh. I do not propose to discuss that proposition at length, for it appears to me that it is self-evident on its face what it means. We have already left with the legislature the power to make courts, growing out of our proposed amendment in relation to the right of trial by jury, and this simply leaves the matter of apportioning representatives among the several towns to the legislature, precisely as we leave it to the legislature to put something in place of the right of trial by jury, if that passes, as proposed by the convention. Now, sir, that proposition is identical in spirit and sentiment with the manner in which we elect our congressional representatives: it is precisely the same basis, and is left in precisely the same position that our congressional representatives are left, in relation to their apportionment by congress among the people. Now I simply propose that we shall reduce this house to 300. It seems to be a fair number, and about which I think we are almost all of us agreed, and then leave the consideration of the details, which we have been discussing here, to be settled by the legislature when they shall convene, which will relieve this committee of all trouble on that matter.

On motion of Mr. Burleigh, his proposition was laid aside for the present.

The committee resumed the consideration of the proposition of Mr. Ordway of Warner.

Mr. Whittemore of Pembroke moved to amend the same as follows :

By striking out all relating to Article 10, and by striking out Articles 10 and 11 of the Constitution, and also by inserting after Article 9 the following: "Such towns or places as have less than the number of ratable polls required to elect one representative may elect a representative such portion of the time as the number of their ratable polls shall bear to the number required in other towns or places to elect the first representative, provided that the towns and places that may be entitled to a representative a portion of the time shall have the right to elect a representative at the first election under this amendment to the Constitution, and in the years when a new apportionment of public taxes shall be made by the legislature, as a part of that portion; and the legislature may prescribe the manner in which their rights of election as to the other proportional parts of the time shall be determined."

Mr. Whittemore. From the indications expressed by those who have spoken on this question, and from various remarks that have been made by gentlemen of the committee, I have been led to the opinion that this convention, if they submitted any proposition that would be likely to be accepted by the people, would be on the basis of ratable polls, or legal voters; and inasmuch as the proposition embraced in the resolution of the gentleman from Warner relates principally to the 9th Article, I desire to amend further so that the small towns would see plainly what might follow,—that is, a representation a portion of the time. I am convinced that that proposition would be just and reasonable; and if the first part of Mr. Ordway's proposition should prevail, so as to base the representation on ratable polls, we can proceed, it strikes me, and bring this matter to a close very speedily by keeping this resolution before the committee, and first determining whether we shall strike out one hundred and fifty and insert two hundred, as proposed. If the committee should decide not to strike out, of course it would be upon such amendment as might be proposed; but it would be



effectually following up the line marked out in the resolution submitting this question, whether this convention is going to adhere to ratable polls as a basis of representation, or prefers some other mode. In order to determine that, we have got to take some votes and see how the complexion of the convention may be.

On motion of Mr. Sanborn of Franklin, the proposition of Mr. Ordway of Warner was laid aside for the present.

The proposition of Mr. Gallinger of Concord being before the committee—

Mr. Gallinger. That the committee may not be prejudiced at all against the scheme based on population, I desire to say a single word. It is this: The first proposition I introduced contemplated basing the first representative on 600 or 800, increasing the second to 1,200, the third to 1,500, and so on. The amendment introduced by the gentleman from Littleton [Mr. Farr] places the first representative on a basis of 600, and increasing 1,200 for each additional representative. I desire to accept that as an amendment as soon as an opportunity occurs.

Mr. Barton of Newport. I desire to make one suggestion. I have no prejudice against one scheme or another. It was suggested by the gentleman from Manchester [Mr. Clark], that if you adopt the system of basing your representation on the population there would be a large surplus that would be unrepresented, and he cited two towns, one of which had a small population, and the other quite large—not quite enough for two. Now, what I wish to say is, that the same objection lies against the system founded on ratable polls or legal voters. The same objection applies to either of those, that applies to this; for we all know that in small towns, under the system already suggested, you have not enough to elect two, and are compelled to elect one when you lack only a few votes of enough to elect two,—so that the same objection lies against the system of ratable polls that lies against the other two systems. I desire to state that, because there seems to be an impression that the objection raised there was one worthy of considerable attention and consideration; but I see no difference in all of these systems in regard to a surplus vote.

Mr. Putnam of Warren. I will detain the committee but a single moment in regard to the question that is now before you for consideration. It seems to me that all the arguments that have been adduced here, in regard to the several schemes that have been placed before the committee, all tend to show the necessity of this committee coming to some definite conclusion in regard to this matter. We have heard talk in regard to the various frauds that have been perpetrated in this state at our annual elections in regard to the basis of ratable polls; and it seems to me that it is desirable that this convention should adopt the plan suggested by fixing the representation in this body upon population. Then, if we adopt that, we shall have something tangible; we shall have something fixed; and no selectman, I trust, will have the hardihood to commit frauds upon the check-list, or, in violence of the Constitution, elect more representatives to the house than the town is entitled to according to the previous census. I therefore hope that the committee, in coming to a conclusion in reference to this matter, will fix it upon population, and then we shall have something fixed, and every town will know how many representatives they are entitled to elect.

Mr. Sanborn of Franklin. The committee will credit me with having trespassed but very little upon their time. I came here, like my friend from Canaan [Mr. Murray], with no proposition of my own, but desirous to find out what was right, and to support it. I have listened with a great deal of interest to the various propositions and discussions upon this subject. There has been nothing offered which I have not been willing and anxious to listen to and to weigh; and, sir, I think, as between the propositions that are offered, the one which is the fairest, which looks the most honest and the most consistent to us, will be the proposition that will be received in that light by the voters of this state next March. And I want to ask, sir, any friend here of any other proposition, what unfairness there is—what appearance of anything that is not equal and just in fixing the basis of representation upon population? Where is there any fallacy to that principle? Is it not the principle and the theory upon which the government of this country is founded, and upon which the government of our state is grounded? Is it not our theory?

Now, sir, we should say that, upon that theory, if our machinery for representation were perfect, there was nothing here to correct. Why, then, is this convention assembled? Do gentlemen suppose that the people sent us here, and the legislature of this state appropriated twenty-five thousand dollars, to abolish the religious test,—a very excellent thing, I admit, but something that never has worked injury or injustice to anybody within the memory of any man now living. The time never was, sir, when any party had the hardihood to step out in defiance of popular opinion, and apply what is really an obsolete test of our fathers to the political manœuvres of this generation, and no party will attempt it. We did not come here for that, sir. Did we come here to place the jurisdiction of justices of the peace to one hundred dollars? I doubt that very much, and I think we shall hear from that next March. What, then, are we here for? What is the reason of our coming here, to putter away with words—to alter “in” to “into?” or are we here to do substantial work? What has been the great complaint for the last ten years? As every man knows, it has been this: that the original basis of representation in the Constitution has been stretched—has been twisted this way and the other; that there is an excess of representation and not an honest representation, and that the evil has grown so great, and been so notorious, that the people of New Hampshire have sent us here to correct it,—and that I believe to be the main object of this convention. Now, sir, how shall we right it? Shall we preserve the old plan of ratable polls? shall we “define a poll” here? Why, sir, it was defined in 1792, when the constitution was adopted. No man ever complained that then it worked injury; no man ever complained that then partisans twisted and stretched it to suit their own ends;—but the times have changed, and we have grown into that trouble. Now, sir, can we adopt a definition of it to-day, which in thirty years, or twenty years, or even in ten years, will stand the strain of other exigencies. We have found out that the ratable poll is a sliding basis, and the same difficulty will occur again. Are we so much wiser than the framers of the Constitution of 1792, that we can place a definition upon a ratable poll that can never be twisted or warped

as events change? It seems to me that we are leaving the difficulty precisely where we find it, or, at least, that we are only attempting a temporary cure. My belief is, that a basis which is fixed by the general government by a census of the population, is a firm, unyielding basis, and one which can never work fraud nor injustice. Sir, I admit there was force in the argument of the distinguished gentleman from Manchester [Mr. Clark] in regard to a certain number of the people not being represented by this mode. It struck me with a great deal of force at the time; but is this not, as the gentleman from Newport [Mr. Barton] suggests, equally true of the ratable system, for instance?

Mr. Clark of Manchester. The adoption of the population scheme would cut out about fifty representatives from the large towns, and the ratable polls would not cut out any.

Mr. Sanborn. Perhaps the gentleman from Manchester [Mr. Clark] misunderstood me, Mr. Chairman. I am not arguing in favor of any particular number of population, nor any particular amendment: I am simply maintaining that the basis of representation should be a firm and steadfast one, and not an elastic one, which cannot be the case if ratable polls be made the basis. In regard to a large fraction being unrepresented, as the gentleman from Newport [Mr. Barton] suggested, and as I was about to say when interrupted, does not the same rule apply to ratable polls? Can you suggest any sort of theory of basis of representation where there will not be a large fraction which will not be represented? Is there any theory upon which a representative government can be based wherein a minority will be represented, unless we adopt the minority system of representation? For instance: take any town you please where the parties are nearly evenly divided; one party sends three representatives here. You say the whole town is represented; but some of us sometimes think we are worse than that,—that we are misrepresented. Take a town of 449 ratable polls: how many representatives do they get? One. You have, then, a large minority of ratable polls which have no representation,—and, let me say, that I think a ratable poll in the general population of this state would represent about

six of the population. I think some gentlemen have made an estimate to that effect. Now, sir, I repeat my question, Can any gentleman say that the basis of population is not a fair basis? Wherein is there inequality? If the town that I represent is smaller than the city of Manchester, have I the right to claim the same representation that they have? Is that equality? If my neighboring town is still smaller than mine, should it have the same representation that I have? I cannot see any inequality in basing it upon population; it affects all alike. Now, one word in regard to the district system: I am opposed to it. I am opposed to it upon all grounds. I believe in the basis of population, but I would make the number for the first representative small. I do not believe in the district system of representation; I believe in the town system, and no other. I would make the basis of representation such as would substantially have all the towns represented that are represented now upon this floor. That is the theory that I believe in, and one that I am anchored to, and one that I will never consent to be separated from. I think, if this excess of representation is to be taken off, it should come from the larger towns, though not entirely, with unfair ratio. I believe it to be fair that the small towns should have their voice in the government. And, sir, I have encountered men on the floor of the house of representatives, and in this convention, who, I think, are abundantly able to represent, singly and alone,—without colleagues, or help, or instruction,—a population and a constituency even of 20,000. It does not occur to me that, because a little town of 400 inhabitants is to be represented by one representative, that the next town that has 800 should be represented by two. I cannot see any justice in that, and I do not see any equality in it, and I do not believe it is necessary. I believe in giving all the towns a voice here, and all the representation that their interests need, and to stop there, and take away the excess of representation. Sir, I believe, if we fail to give some scheme to the people by which they can reduce this house of representatives, that we fail in our duty, and I propose, sir, to vote for the scheme founded upon population.

Mr. Cilley of Manchester. I have not yet troubled the committee with any remarks, nor do I propose to hereafter. I



came here, for one, under the impression that whatever we might do in the present state of public excitement would be made null and void at the polls, and the longer I stay here the more I am convinced and confirmed in that opinion. The question here is whether we shall adopt ratable polls as a basis, or some other scheme. I fear that our work will come to naught if we depart so much from the Constitution as to adopt any other than a ratable poll basis. The district system, or the population system, will be all new to the people, and in my judgment it cannot be explained to them so that they will adopt either of those propositions, and for one, I am in favor of ratable polls. I am in favor of ratable polls as it stands now in the Constitution of New Hampshire. For fifty years ratable polls had but one meaning. From 1792 to 1842 ratable polls meant the taxed polls of the year before. The supreme court ever held that construction of the Constitution. What had selectmen to do? Simply to turn back to the list of taxes the year before, and that was the basis of their representation. Now, I believe it will not be carried out to-day, and I shall believe, from what I am informed by gentlemen who have been in this house, that to reduce this house from sixty to seventy members we are departing from this rule of the fathers. In 1842 a law was passed making every male inhabitant of twenty-one years of age and upwards a ratable poll. Before that, it was simply every ratable poll was of twenty-one years and upwards, but excluded all over seventy. Before that time, ratable polls in this state were from eighteen years to seventy years, for some purpose, but not for the basis of representation. Now, in 1842 they enlarged this rule: they made more ratable polls; and, through the construction of that word, in 1847 they made it still more comprehensive; and in 1872, more than that;—so that now, I can stop a train of cars at Manchester, or any other town or location, long enough to take the names of persons over twenty-one years of age, and they are your ratable polls. I know that good lawyers have thought all this legislation has been wrong and unconstitutional; but I say, if the state of New Hampshire have the right to enlarge a ratable poll, they have a right to diminish it. If they have a right to increase, by any legislation, the construction of that word so as

to make more ratable polls, they have a right, by legislation, to diminish it; and, in my judgment, all this trouble that we have here to-day has arisen from the parties in this state to enlarge the meaning of this term "ratable polls," and therefore I believe we should go back to the original wording of the Constitution and act in regard to it, and we will be safer than by adopting any proposition I have heard here.

Mr. Hardy of Keene. Just one word. The gentleman from Manchester [Mr. Cilley] says that all this comes from parties. I think it is time we should fix something in the fundamental law to stop parties doing it. I came here with the understanding that the house was to be diminished in numbers some way. This basis of ratable poll is the most unstable, unreliable basis that can be adopted here. I think it is an unsafe theory to go upon, and I shall vote against the proposition when it comes before the committee.

Mr. Smith of Newmarket. I will occupy but a moment after the lucid statement in regard to population to which the committee have already listened. The theory of the population doctrine is that it is based on the popular will, and expresses what the people want. Now I think there is nothing more illusive than this statement. Let us see for a moment. The gentleman this forenoon stated that he desired an expression of the people; the gentleman from Franklin desires an expression of the people, therefore he votes for population,—upon which basis we shall arrange our house. Now, I say, the true basis for us to take—the true basis on which we should advance—is the basis upon which we now make our house. Now what is that basis? It is not population, for the population does not send a man to the house of representatives; but it is this identical thing which we propose to vote for now, which is the prime factor of the elective legislative system; and, notwithstanding our declaration of popular representation, I assert now that there is not and never has been a legislative government founded upon the popular will necessarily. We approach as near it as any people can; but, let us take the proposition of the gentleman from Canaan, who, perhaps, represents the population of Canaan,—represents every man, woman, and

child who is referred to in the national census. It is possible that he does ; but it is quite probable that the men or the women of the population did not send him here ; the children did not send him here : he was sent by the legal voters of the town of Canaan, and they represent only one quarter of the population which you are wanting to make the basis of representation in this house. But go still farther. Suppose he is elected by one vote more than necessary for a choice : instead of representing one quarter he only represents one eighth. Debate it as you will, you are sure to come back to the idea that the legal voter must be the representative basis of every system of government. When the gentleman returns to Canaan he cares not what the seven eighths say about him, but is perfectly satisfied if the one eighth endorse his conduct. The basis of this house of representatives, the basis of this country, the basis of every democracy is a legal voter. They, if they are satisfied, will enlarge their law so as to take in a woman, or a boy of eighteen years of age, they will enlarge it so as to take in a pauper, and can accept the woman, the boy, and the pauper, and the population says nothing about it.

On motion of Mr. Walker of Claremont, the proposition of Mr. Hatch of Keene was taken from the table and considered, and—

1st. All gentlemen in favor of basing representation upon ratable polls were requested to stand and be counted,

And 14 gentlemen so voted.

2d. All gentlemen in favor of basing representation upon legal voters were requested to stand and be counted,

And 44 gentlemen so voted.

3d. All gentlemen in favor of basing representation upon population were requested to stand and be counted,

And 232 gentlemen so voted.

Whereupon Mr. Bell of Exeter called for the reading of all the propositions making population the basis of representation.

And the propositions of Mr. Gallinger of Concord, Mr. Page of Haverhill, Mr. M. C. Burleigh of Somersworth, Mr. Farr of Littleton, and Mr. Badger of Concord, were severally read.

On motion of Mr. Page of Haverhill, the following resolution was adopted :

*Resolved*, That all the pending propositions be passed over for the present, and that the following resolution be adopted as the sense of this committee, and reported to the convention :

*Resolved*, That population be the basis of representation.

Upon the adoption of this resolution, a division being called, 177 gentlemen voted in the affirmative and 15 in the negative, and the affirmative prevailed, and the resolution was adopted.

On motion of Mr. Bell of Exeter,

*Ordered*, That the committee rise, report progress to the convention, and ask leave to sit again.

#### IN CONVENTION.

(The president having resumed the chair.)

Mr. Emery, chairman, reported that the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the legislative department, and have adopted the following resolution :

*Resolved*, That population be the basis of representation.

And ask leave to sit again.

Mr. Ramsdell of Nashua moved that a special committee of two from each county, one of whom being of each party, be appointed, to whom the various propositions basing representation upon population shall be referred.

And the same was declared out of order by the chair.

On motion of Putnam of Warren, the convention resolved itself into committee of the whole on so much of Part Second of the Constitution as relates to the general court.

#### IN COMMITTEE OF THE WHOLE.

(Mr. Page of Haverhill in the chair.)

On motion of Mr. Lyford of Canterbury, the committee proceeded to the consideration of the proposition of Mr. Gal-linger of Concord.

Whereupon Mr. Lyford withdrew the amendment offered by him, and introduced the following:

Amend said proposition by making 600 inhabitants as a basis for the first, and 1,200 additional inhabitants as a mean ratio of increase for each additional representative.

And Mr. Gallinger of Concord accepted the proposition of the gentleman from Canterbury.

Whereupon Mr. Farr of Littleton withdrew the proposition introduced by him during the morning session.

Mr. Barton of Newport. It seems to me that this ought not to be done; for whether I vote for the 600, or not, depends upon what the increase will be. That will modify my action upon the first.

Mr. Davis of Amherst. I rise simply to ask for information as to what number the house will consist of by this last proposition.

Mr. Gallinger. I will answer the gentleman by saying, that if the ratio that is proposed is adopted, it will reduce the house to just about three hundred members—possibly a few less, but not more than three hundred.

Mr. Walker of Claremont. I rise to call the attention of the committee to the way it will affect Sullivan county where I reside. I represent, in part, the town of Claremont. We have, according to the census last taken, 4,053 inhabitants. We send now, according to the old law, five representatives. By the operation of this amendment proposed, we shall send about three representatives—600 inhabitants for the first, 1,800 for the second, and 3,000 for the third. We number less than 4,200, and consequently, cannot send four. I do not object to this diminishing of the number of representatives from Claremont, if it were more equal. You will notice that the towns of Croydon, Grantham, and Lempster have, respectively, 652, 608, and 678 inhabitants. Under the old representation, they have one representative; under this method prescribed, they will each retain their representation, while Claremont must be reduced to three.



On motion of Mr. Burns of Lancaster,

*Ordered*, That the committee rise, report progress, and ask leave to sit again.

IN CONVENTION.

(The president having resumed the chair.)

Mr. Page, chairman, reported the committee of the whole had had under consideration so much of Part Second of the Constitution as relates to the legislative department, without conclusion, and asked leave to sit again.

Mr. Ramsdell of Nashua. I move you, sir, that the rules of this convention be suspended.

A Delegate. What for?

Mr. Ramsdell. I make that motion so that my motion for the appointment of a committee to consider the appointment of members of the house can be taken up, as a small committee can better consider this matter which we find difficult to reconcile in committee of the whole, or in convention.

Mr. Emery of Portsmouth. I call for the reading of the rule referred to.

The clerk having read the rule—

The motion of Mr. Ramsdell was carried, on division, a majority of the convention having voted in the affirmative.

Whereupon Mr. Ramsdell introduced the following resolution, which was adopted.

*Resolved*, That a special committee of twenty—two from each county—be appointed to take into consideration the several propositions relating to basing representation upon population, and to report to the convention.

The president announced the special committee under the foregoing resolution as follows :

Messrs. Bell of Exeter, Wendell of Portsmouth, Wheeler of Dover, Woodman of Somersworth, Cole of Gilford, Whipple of Laconia, Hubbard of Tamworth, Mason of Moultonborough, Gallinger of Concord, Shirley of Andover, Ramsdell of Nashua,

Woodbury of Pelham, Hatch of Keene, Buflum of Walpole, Tolles of Claremont, Sturoc of Sunapee, Murray of Canaan, Putnam of Warren, Benton of Lancaster, Bedel of Colebrook.

Mr. Wheeler of Dover. I would like to detain the convention not more than two minutes. I dislike to bring anything that looks at politics into the convention; and I do not make the statement that I now make with any such purpose, but simply to show the inequality of this matter, and ask the attention of gentlemen to it, and figure upon it between now and to-morrow morning.

Mr. Gallinger of Concord. Here is a question of order. What is best for the whole house is the point.

Mr. Wheeler of Dover. I wanted to say, that in Strafford county there are thirty-five representatives—thirty republicans and five democrats. On this proposition we should be reduced ten republicans and one democrat, which would make us stand twenty to four. If I am wrong in my calculation, I beg to be corrected. I do not complain on party grounds, but I complain on the great principles of right, and I will not submit to it unless I am obliged to.

On motion of Mr. Barton of Newport, the special committee just appointed have leave to sit during the sessions of the convention.

Mr. Morse of Portsmouth moved that the foregoing special committee be instructed to report to the convention to-morrow morning; but the same was rejected.

Mr. Mason of Moultonborough was excused from service upon the foregoing committee by reason of indisposition, upon his own motion.

And Mr. Sanborn of Wakefield was appointed on said committee in place of Mr. Mason.

On motion of Mr. Sanborn of Franklin, the convention adjourned.

FRIDAY, DECEMBER 15, 1876.

The convention met according to adjournment.

(The president in the chair.)

Prayer was offered by the chaplain.

The journal was read and approved.

Mr. Jones of Wilton introduced the following resolution, which was adopted:

*Resolved*, That a committee, to consist of five members, be appointed by the president of this convention, whose duty it shall be to report to this convention the time when and the manner by which the several amendments of the Constitution proposed by this convention should be submitted to the legal voters of this state for their action.

Mr. Jameson of Antrim introduced the following resolution:

*Resolved*, That when the several amendments proposed by this convention are submitted to the people for their approval, it shall be in the following manner: The secretary of state shall cause to be printed, and distributed to every town- and ward-clerk in this state, ballots equal to twice the number of votes cast at the last election for governor in said town or ward,—said ballots to be printed upon plain white paper as follows: Headed “Constitutional Amendments,” Numbers 1, 2, 3, and so on through the several amendments to be submitted, leaving a reasonable space upon said ballot between each amendment proposed, and expressing in words clearly the meaning of the proposed change; or, if the amendment be short, the entire amendment, so as to leave no doubt in the mind of the voter in regard to the effect of said amendment. And at the bottom of said ballot shall be a printed note, viz., This ballot will be counted as an affirmative ballot for any and all amendments not plainly marked, erased, or followed by the word *No*; and in that event it will be counted as a negative ballot for those amendments so marked, erased, or written. Any voter desiring to vote against any or all of the proposed amendments shall mark, erase, or write the word *No* against or following the amendment he

desires to reject—as directed by marginal note on ballot; but all ballots shall be counted as affirmative ballots for all the amendments not so marked, erased, or written. And the moderators and town-clerks of the several towns and wards in this state, in counting and returning to the proper authority the votes cast on all the constitutional amendments submitted herewith, shall count and return in accordance with the above.

On motion of Mr. Marston of Exeter, the resolution was laid on the table.

Mr. Marsh of Gilmanton introduced the following resolution :

*Resolved*, That Article 9 be so amended that after the word “having” it shall read “six hundred inhabitants,” instead of “one hundred and fifty ratable polls;” and “fifteen hundred inhabitants,” instead of “four hundred and fifty ratable polls;” and “fifteen hundred inhabitants for each representative after the second.”

Which was laid on the table on motion of Mr. W. H. Y. Hackett of Portsmouth.

Mr. Thompson of Concord introduced the following resolution :

*Resolved*, That the Constitution be amended by striking out Articles 98 and 99, and substituting the following : “Any amendment or amendments to this Constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by a majority of the members elected to each house, such proposed amendment or amendments shall then be entered on their respective journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be duly published ; and if, in the legislature next afterwards to be chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, and the same be recorded on their journals, and the yeas and nays taken thereon as aforesaid, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, and if two thirds of the qualified voters of this state, present and voting thereon at meetings duly called and warned for that purpose, shall approve and ratify the same,

then such amendment or amendments shall become a part of the Constitution : *Provided*, that no amendment or amendments shall be offered to the people oftener than once in six years ; and if more than one amendment be submitted, it shall be done in such manner and form that the people may vote for or against each amendment proposed to any and every provision of the Constitution separately.

Which was declared carried.

Whereupon a division was called for, and upon the question being stated, on motion of Mr. Hastings of Monroe the resolution was laid on the table.

Mr. Sanborn of Candia introduced the following resolution :

*Resolved*, That no proposed amendment to the Constitution shall be submitted to the people without first receiving a two-thirds vote of the convention.

And on the question being stated, a division was called for.

Whereupon, on motion of Mr. Burrows of Plymouth, the resolution was laid on the table.

Mr. Spring of Lebanon introduced the following resolution :

*Resolved*, That Article 20 of the Bill of Rights, as amended by the resolution of the gentleman from Exeter [Mr. Marston], be changed by striking out the words "one hundred dollars" and inserting "twenty dollars," that it may not conflict with the provisions of the Constitution of the United States.

And the same was rejected.

Mr. Kimball of Ward 5, Concord, by unanimous consent, introduced the following amendment :

Amend Article 26 by inserting after the word "dividing," in the third line, the word "counties."

Which was ordered to lie on the table, and be referred to the committee on representation.

Mr. Smith of Durham introduced the following resolution :

*Resolved*, That the committee, on the future mode of amending the Constitution and other miscellaneous matters, be in-



structed to inquire into the expediency of striking out section 99, and substituting the following :

“Whenever a majority of the house of representatives shall deem it necessary to alter or amend this Constitution, they may propose such alteration and amendments, which proposed amendments shall be continued to the next session of the legislature, and be published with the laws which may have been passed at the same session ; and if two thirds of such house, at the next session of the legislature, shall approve the amendments proposed by yeas and nays, said amendments shall, by the secretary of the state, be transmitted to the selectmen of the several towns and cities in the state, whose duty it shall be to present the same to the legal voters thereof, for their consideration, at meetings legally warned and held for that purpose ; and if it shall appear, in a manner to be provided by law, that a majority of the legal voters present and voting at such meetings shall have approved such amendments, the same shall be valid, to all intents and purposes, as a part of this Constitution.”

Which was ordered to lie on the table.

Mr. Wheeler of Dover, for the committee to whom was referred the amendments of so much of the Constitution as relates to the “Bill of Rights,” “Executive Department,” and “Religious Test,” respectfully submit the following report :

Article 1 of Amendments. The word “Protestant” is stricken from the bill of rights wherever it occurs.

Article 2. The legislature has power to establish tribunals for the trial of causes wherein the amount in dispute does not exceed the sum of one hundred dollars, and when the title to real estate is not in question, without the intervention of a jury.

Article 3. Election of governor, councillors, senators, and representatives shall be held biennially in the month of November.

Article 4. The word “annually” in Part Second in the 63d Article of the Constitution is stricken out.

Article 5. Judges and registers of probate, solicitors and sheriffs, shall be biennially elected, agreeably to the provisions of Part Second, Article 71, of the Constitution.

Article 6. No person is disqualified to hold office by reason of his religious opinions.

On motion of Mr. Poor of Derry, the words "judges of probate," in the 5th Article, be stricken out.

And on the question being stated, a division was called for, and 113 having voted in the affirmative and 112 in the negative, the affirmative prevailed, and the amendment was adopted.

On motion of Mr. Wheeler of Dover, the words "registers of probate," in the 5th Article, be stricken out.

And the same was rejected.

Mr. Ramsdell of Nashua. I voted for the amendment proposed by the gentleman from Derry [Mr. Poor] for this reason: We have already amended the Constitution so that no judge of probate can hereafter be removed for any reason except cause. I adhere to the remarks which I made the other day favoring the making of these officers elective, and for the reasons which I then gave the committee. Although I was in favor of taking the right of electing the judge of probate away from the people, I still adhere to the opinion already advanced, that we had better elect the register and other officers by the people.

Mr. Bell of Exeter, for the special committee of twenty, to whom was referred the various propositions basing the representation upon population, have attended to the duty assigned, and beg leave to report that, after consideration of the several propositions, we recommend the adoption of the appended amendments:

Strike out Articles 9, 10, and 11, and insert the following:

"There shall be in the legislature of this state a representation of the people, biennially elected, and founded upon principles of equality; and in order that such representation may be as equal as circumstances will admit, every town and place entitled to town privileges, and wards of cities, having 600 inhabitants by the last preceding general census of the state, taken by authority of the United States or of this state, may elect one representative; if 1800 such inhabitants, may elect two

representatives; and so proceeding in that proportion, making 1200 such inhabitants the mean increasing number for every additional representative: *Provided*, that no town shall be divided, or the boundaries of the wards of any city so altered, as to increase the number of representatives to which such town or city may be entitled by the then next preceding census; *and provided further*, that the legislature in session next before these amendments shall take effect shall equitably apportion the representatives to those towns which may have been divided or whose boundaries have been changed since the last census, and in those cities the boundaries of the wards of which have been altered since the last census, in such manner that the number of representatives shall not be greater than it would have been had no such division or alteration been made.

Article 10. Such towns, places, or wards as have less than 600 such inhabitants shall be classed by the general court for the purpose of choosing a representative, so that each such class shall contain at least 600 such inhabitants, and be seasonably notified thereof; and in every class formed for the above mentioned purpose, the first annual meeting shall be held in the town, place, or ward wherein most of the inhabitants reside, and afterward in that which has the next highest number, and so on, biennially, in rotation through the several towns, places, or wards forming the district.

Article 11. Whenever any town or place entitled to town privileges, and wards of cities, shall not have six hundred such inhabitants, and be so situated as to render the classing thereof with any other town, ward, or place very inconvenient, the general court shall determine when such town, place, or ward shall send a representative such proportionate part of the time as the number of its inhabitants shall bear to six hundred; and the legislature shall not grant to any town, place, or ward any special privilege to send a representative.

And the same having been declared adopted, Mr. Marston of Exeter called for a division upon the question.

Mr. Slayton of Manchester. I wish to ask a question of the chairman of the committee, and that is, whether in the city of Manchester, or any other city which has been re-warded since

1870, there is any provision for taking the census at the present time.

Mr. Bell of Exeter. The committee considered that subject, and thought that it would be unjust to make a new census of those towns and cities, when the other towns and cities were compelled to be classed upon the census of 1870. They have therefore proposed that, in the case of the cities that have been re-warded, or towns that have been newly divided or newly made, the next legislature shall so apportion the representatives in those cities and towns as to be equitable, and not to increase the proportion from what it would have been had no such alterations been made: that is, their basis would be the same old basis, all of the other cities and towns would be the same, and would be equitably apportioned upon that basis.

Mr. Marston of Exeter. I have taken no part in this discussion, but I have given to the convention my own idea as to whether it was desirable to make any radical change in the representation of this state. It seems to be the view of the convention, pretty unanimously expressed, that the house of representatives should be greatly reduced, and the idea has been quite as unanimously expressed that the representation should be based upon population. I have waited to see what plan or scheme would be devised that would not make such radical changes in the representation, and in the right of towns and cities to representation, as to make it offensive to the people. I do not know but this has been accomplished, but it seems to me, upon the little examination I have been able to make since last evening, that the changes made are so radical that they never will be adopted by the people in the world. A wise man has somewhere said that a statesman—a wise statesman—should take into consideration all existing facts; and before we send out any proposition for amending the Constitution, I think there are a few facts—indisputable facts—that we ought to consider. I do not think any one can deny that the people of New Hampshire have always been extremely reluctant to call a convention with reference to the Constitution. I infer from that fact, that, in the main, they have been satisfied with the old Constitution, and that they are reluctant to submit it to

a convention because they fear that the changes that may be made will not make it better, but worse.

There is one other great fact that I think it would be well to have in mind all the time,—and that is, that from our last election returns there were only 30,000 of the voters of New Hampshire that voted to call this convention; almost 11,000 voted against it; and 40,000 declined to vote at all. Now, if we submit any proposition to the people that makes a radical change in the Constitution, that takes away the rights of many towns—the right they had, or supposed they had, to representation under the old Constitution—is it likely that it will be adopted? There is another fact that perhaps it would be well enough to bear in mind,—and that is, that twenty-six years ago there was a constitutional convention, and pretty much the same sort of amendments were sent out to the people that we are likely to send out now;—and what was the result? Why, every article was rejected—every one. Another one was subsequently sent out that was adopted; but all the main additions—everything of any consequence—everything, except the property qualification for office, was rejected. Among other propositions, one was sent out to change the basis of representation—not to make the basis on the number of inhabitants, but to change the number of ratable polls from one hundred and fifty to some larger number—I forget what, but to a considerably larger number—as the basis in the first instance, and to a still larger number for the second. Now, what was the vote for that amendment? Instead of the two-thirds vote necessary, it only received about one fifth: there were about 16,000 in favor and about 64,000 opposed. What hope then have we that we can make almost precisely the same change and have it adopted?

I have looked over the county of Rockingham and some other counties, and I saw how it would probably affect the county of Rockingham. Now, there are in that county six towns that will be deprived of one half of their representation; some of them, like Londonderry, have, for time whereof the memory of man runneth not to the contrary, sent a representative to this legislature; five other towns are cut down one half; while from the larger town of Rochester only one quarter part is taken away. Now that holds in all the larger towns. The



talk has been in this convention all the time that if there was a reduction, it ought to be made in the larger towns and cities, and the representation of the small towns preserved; but exactly the reverse has been done, because the cities are divided into wards, and wards are regarded as towns for the purpose of representation; and there are six cities in New Hampshire, which, if they were towns, would send six representatives on the basis of six hundred, but as cities they have thirty-eight wards, and they send thirty-eight on the basis of six hundred. Is that fair? is that equal? is that just? You increase the power of the great cities of New Hampshire, enlarging it over what it was before relatively over small towns. Now, in four counties,—Rockingham, Belknap, Carroll, and Strafford,—there are fifteen towns deprived of their representation—that is, in all; there are seven towns in the county of Rockingham. In the four counties I have mentioned, there are fourteen that have heretofore sent a representative that can send none; of these several towns two of them that have less than one hundred voters have sent a representative by special act of the legislature, which by this bill are deprived of their privilege. Now, is it very likely that these towns would submit to that—that you would get any vote there? Would it be agreeable to their feelings to be deprived of their just representation in the house? It strikes me that it would be idle to send out any such amendments with the hope that they would vote for it.

There is only one other thought that I wish to present, and I will not trouble the committee more. It is this,—that all the trouble, as I think, and all the increase of representation which has created the whole desire and induced many people to think that there ought to be a diminution in the house of representatives, arise from an abuse of the law. Now, as the fathers left it—as the old Constitution was—every town having one hundred and fifty ratable polls might send a representative. If any town had not one hundred and fifty ratable polls, it was the design of the Constitution that they should be classed; but because some towns that were to be classed stood so that it would be inconvenient to class them, the Constitution conferred on the legislature the power to give to such towns the right to send a representative. What was the result? Almost every town

was given the right to send a representative, and that increased the number over what was designed by the original framers; and it went so far that the legislature gave to the little town of Gosport the right to send a representative, and it only cast twelve votes. I think that was certainly an abuse of the power the Constitution had given them.

There was, up to the year 1874, a description of ratable polls; but the legislature abolished it, so that every man was regarded as a ratable poll that was in town on the day of election. Now, I say it is the abuse which has made the number of the legislature beyond what would, by some, seem to be reasonable bounds. Now it seems to me, that if we went back and tried to define what this ratable poll was, it would be perfectly satisfactory to every town. I do not think that any town that had got an increased number in consequence of the repeal of the law some five or six years ago would object to putting it back where it was. And if we had made that change and gone home, it strikes me it would have been perfectly satisfactory to everybody, and there would have been no occasion to find fault with anybody; and I think it would have reduced the house sufficiently; and it would have been vastly better than anything we have done, or, under this scheme, are likely to do.

Mr. Mason of Moultonborough. I have occupied the time of the committee but a very little since the convention commenced, and I have a few words which I wish to say here. I came here with the supposition that the basis of representation would be upon ratable polls, or voters; and, if you remember, I introduced a resolution to that effect, and it took, with other matters that came before the convention, the sliding scale, until it finally slid off. The question next came up, What shall be the basis of this representation? Now, I cannot see the force of the remarks of the gentleman from Exeter [Mr. Marston], who has just taken his seat, when he says there is much inequality in reducing these towns which have lost their representative. You are taking away no rights of the people—not at all. It is not, in the abstract, their rights in any sense: you are only taking away a few of their ambitious men, who want to come to the legislature,—that is all. The most of the men of the state are not

particularly interested. If you send but one representative where you now send two, there may be a few ambitious men, because they aspire to vote here in the legislature, that want to come, who will be disappointed. And then, sir, we have had it held up before us that it is necessary to think that a number of towns will be deprived of their just representation. Why, sir, I will risk the gentleman here to represent the whole people of the county, and to do it equally well as can be done by twenty persons;—so I see no objection to that. And we have heard much of the articles of the old constitutional convention being rejected by the people;—and why were they? Because they sat here five or six weeks. [A voice, “Seven weeks.”] Some one says “seven weeks:” the convention sat here so long that they wore out the patience of the people, and disgusted them; and I fear, sir, that, unless limitation is put upon us, we shall give them the same objection, unless we proceed with more rapidity than we have done so far during this convention;—so I cannot see any objection at all. Then, we have been referred to the wisdom of our fathers. There was wisdom there: they gave to the people a good Constitution for the times, and it is wonderful that it has been handed down so far; and I can only regret that the fathers could not have looked forward and seen the needs of the state as they are now, this day, and framed a constitution fitted for the times in which we live; and if they had done so, you would not see four hundred members in the legislature. So, sir, I am decidedly in favor of the amendment that has been reported by the committee.

Mr. Benton of Lancaster. If I believed that the recommendations of the committee, of which I was a member, were fair, and suitable for the people to adopt and for the people of the state to ratify, I would not stand here to make any objections; but it seems to me, sir, there are very serious objections to the adoption of the recommendations of the committee. It has been objected here, when the committee was upon the amendment or suggestion, from another quarter, that the representation of towns would be largely reduced by the adoption of the district system, as it was called, and by the representation of the people: it occurred to a member that that would not be assented to, because it would give to the large cities in the state

an undue weight and influence in the legislature. Now, sir, this recommendation—the proposition submitted in this report—instead of obviating that objection that was made to the district system, intensifies it, in my judgment. The large cities, as has been remarked by the gentleman from Exeter [Mr. Marston], are so divided and arranged by the wards for the purpose of electing representatives, that it does not hit them as it does the large towns in the state that are not cities. They must have, to entitle them to one representative according to this basis, 600 inhabitants; to entitle them to two, they must have 1800; to entitle them to three, they must have 3,000;—but in the cities, if they are so divided that one ward is entitled to one representative on the basis of 600 inhabitants, each ward may send one representative on that basis. So you see that this proposition keeps down the small towns and the large towns that are not cities, and gives large cities all the influence and weight they have now in the present arrangement, if not increasing it. Then, it classes all small towns—that is, to some extent—and authorizes that, in special cases, they may be classed with other towns; but if the towns are not classed, they may send that part of a representative that they are entitled to. Now look, Mr. Chairman, at the small towns that may be enumerated throughout the state, and you will find that a large number of that list of towns already have a number of inhabitants almost sufficient to entitle them to one representative. And how are you going to apportion their members to this house? How much are you going to reduce the representatives in the county of Coös? and how much will you reduce the house? Now, Mr. Chairman, I believe the people of this state are in favor of a large reduction in the house of representatives, and I believe the true way to reduce their numbers is by adopting the district system, and have the people represented in the popular branch according to numbers. Since I have been a member of this convention, I have talked with a great number of intelligent gentlemen, and almost all I have seen say, “I am in favor of this; but, then, the convention will not adopt it.” Now I think that if all those in favor of that plan will go for it, the convention will adopt it. In regard to the amendment now before the convention, I believe it to be unjust, I believe it to be unfair, I believe it to

be impolitic, and, therefore, I oppose it. I do not believe that the people sent us here to figure in the way we have upon it, and therefore I do not vote for it. I believe they want something decisive—something so that the business of the state can be transacted in a more business-like way.

Mr. George of Barnstead. No man in all this convention had a deeper regret than I had when the distinguished gentleman from Exeter [Mr. Marston] arose and made the remarks he did, and attempted to throw a firebrand into this convention, and to undo what this convention had done. And I can tell him to be careful of that firebrand when he goes home; for our geological lecturer told us last night that all the brimstone in the state of New Hampshire was in Rockingham county. The people of this state will quietly submit to this report, believing it to be the best that can be devised. I had supposed that we had come to vote, and that when our business was done we could go home and tell our constituents that we had done something—not go home and tell them as Mr. Smith, a school teacher in northern Vermont, did. He never got ahead and he never went back; he staid about so. “How do you do, Mr. Smith?” would be asked. “About so,” he would reply. He lisped a little, and had a little poetical genius. “And how do you get along, Mr. Smith?” He would say,—

“My hands to my labor my sweet hours pass,  
And Saturday night finds me just where I was.”

And I am afraid Saturday night will find this convention “just where it was.”

The gentleman from Exeter has told us of the patriotism and the wisdom of our fathers who framed this dear old parchment. It is true that they brought it forth with the profoundest wisdom and the soundest judgment, and spread it out as a mantle of protection over the people of New Hampshire. The people wish to preserve as much of it as they can, and they have sent us here to make what few alterations were needed, to do our work correctly, and then go home. They have said that it is not the “how much,” but the “how well” that is required of us. They have sent us here to amend the Constitution in such a way as to reduce the house of representatives;



and if the people of New Hampshire had not wished it, they would never have sent us. If we go home, gentlemen, without amending the Constitution so as to reduce the house, I care not what other amendments may be adopted by this convention, the people of New Hampshire will never ratify them by their votes. I merely rose, Mr. Chairman, to tell this committee, that however much we may suffer in the town of Barnstead, we will cheerfully submit to it, believing it to be the best method that could be devised by the gentlemen of this convention. In answer to the gentleman from Claremont, I would say to him that where it cuts him off two fifths we lose one half. I am satisfied. Let him be satisfied in losing two fifths, and go home to his constituents and tell them to follow that grand command of the Almighty to our first parents, "to multiply and replenish."

Mr. Wheeler of Dover. I did not intend to occupy the attention of this committee upon this question now before the house. You all understand that I am not in favor of the proposition to base representation upon population; and thus I am peculiarly situated in this matter, having been a member of the committee who have tried very hard, and exhausted all their ability and ingenuity, to perfect this scheme just now before the committee. Therefore I say I am peculiarly situated; and I feel it my duty, while I cannot approve of the measure—for I do not agree with the proposition to base representation upon population—I feel it my duty to say that they have spent a great deal of time and exhausted all their ingenuity in framing the most perfect thing that they could devise. The members of this convention have declared themselves in favor of the basis of population, and to that opinion of the convention I most cheerfully submit. Now, gentlemen, if you are going to take any proposition upon that basis, I most heartily commend to you the proposition of the committee. I am aware that it must be—as all human work is—subject to imperfections. I am aware that it affects certain portions of the state, perhaps, unfavorably. So must any proposition that you may present before the convention. You cannot adopt any scheme—even our present system operates in the same way—that does not unequally affect the people of the various localities and towns

in this state. Now, if the convention are satisfied that the basis of representation should be population, I am satisfied, after so long a deliberation as we have had, and so much careful study of the various propositions and considerations which came before the committee, that you have got the best thing that you can get. I am in favor, too, of perfecting the work of this convention, and adjourning to-night. We want a short session of this convention, and that will do a great deal towards commending our work to the people of the state. I will not detain you longer, gentlemen, but simply commend the proposition of the committee to your favorable consideration; and if this basis of population strikes you favorably, I fervently hope that it will be adopted by the people.

Mr. Frink of Greenland. If I understand the report of the committee aright, the representation of the cities is based upon the population of the individual wards, and not upon the population of the entire city. Now, Mr. Chairman, I have been unable to discover, from any hand-book that I have had access to, what the population of the wards is. I have no doubt that some of the very intelligent gentlemen representing the different wards of the cities would be able to give this information; but I think we are entirely unable to make any numerical estimate of what will be the effect upon the cities without this information. As at present informed, I am entirely unable, without such information, to vote intelligently upon this proposition, and I believe I find myself in much the same situation in which a great many other members of this convention find themselves.

Mr. Gallinger of Concord. In answer to the very pertinent question of the gentleman from Greenland, I would say that the city of Concord, according to the census of 1870, had nearly 13,000 inhabitants, and is divided into seven wards, and is entitled to fifteen representatives. I will give the committee the exact population of the wards which are affected by this amendment, as laid down in the ninth census of the United States—a book which the committee had access to last evening.

Ward 1, which is the northerly ward of our city, had a population of 1,439, and sends two representatives. They lose one in that ward under this report. Ward 4 had a population of

2,859, has three representatives, and under this report would lose one. Ward 5 had a population of 2,232, has three representatives, and would lose one. Ward 6 had a population of 2,726, has three representatives, and would lose one. Ward 7 had a population of 1,439, sends two representatives, and would lose one. In other words, in answer to the argument of the distinguished gentleman from Exeter, the city of Concord would lose five representatives according to the new cut-down, which is one third of their whole representation, and infinitely larger in proportion than the contemplated reduction of the country towns. The cities are the ones that will suffer, not the smaller towns. Let the same reduction be applied throughout the state as applies to Concord, and this scheme would make a reduction of 130 instead of 90; so that the argument of the gentleman from Exeter absolutely falls to the ground, from the fact that it is not based upon true premises.

Mr. Brown of Kensington. It has been said on the floor of this convention, that if we cannot build better than our fathers we had better go home; and I think if we recklessly and ruthlessly tear down the institutions of our fathers, we shall be sad and sorrowful men when we get home. How long will it be before this principle will be applied everywhere, and whole towns be deprived of representation, on the basis which you now propose to adopt? I would say to the representatives of all country towns, that if you have this thing now in your hands, and adopt the report of this committee, then you will pass in your power now and forever. Suppose that an emergency should arise, and a horde of French Canadians should swoop down upon our peaceful valleys and increase the population of our country towns; suppose that the "Heathen Chinee" should come, and all nations on the face of the earth, and increase the population? Why, then your representatives will come here from the women, from the factory girls, and the children of this foreign population. Adopt this report, gentlemen, and you lay the last straw on the camel's back. Adopt this report, and you pierce the vitals of this commonwealth. The population of all the countries of the world, including the "Heathen Chinee," flowing into our manufacturing towns, your representatives will come, sir, from the women, from the factory girls,

from the children of this foreign population ;—and the character of New Hampshire is changed ; the character of your representation is changed. As Paris is France and France is Paris, and Boston is rapidly becoming Massachusetts and Massachusetts Boston, so New Hampshire may be Manchester, or be entirely controlled by the manufacturing interests or the money interests of the state. Sir, we have been proud of New Hampshire, and, notwithstanding there have been sneers at her legislation, we have been proud of her laws ; and I never saw a New Hampshire man, wherever I have lived in other states, who was not a man of self-respect, and proud of the “ Old Granite State ;” and the men whom she has sent everywhere through the country and through the world have honored and adorned the places which they have occupied. I believe, sir, that if this report is adopted, New Hampshire declines from this time forth. We know, sir, that our population have burdened themselves with a debt to sustain our institutions, and I believe that this convention was called for the very reason that these towns hope, in some way, to reduce their taxation ; they hope, in some way, by diminishing this house to diminish their taxes. These towns are burdened with a debt. Carry this report of the committee, and you will put the straw on the camel’s back. Adopt this plan of the committee, and you strike a fatal blow at these towns. You may not see, sir, the contusion, but by and by you will see the gangrene which will eat out the very vitals of these towns in our commonwealth ; and it will not be long before on your hills where your herds have fed, and in your fields where your crops have grown, the owl will hoot and desolation will reign supreme.

Mr. Bell of Exeter. It would ill become me to take upon myself to meet the distinguished gentlemen who have taken an opposite side on this question now before the convention ; but as chairman of the committee who had charge of it, it is, perhaps, proper that I should say a few words in regard to what the committee understand to be the effect of the amendments which they have adopted. I believe, sir, with my distinguished colleague, that the people of New Hampshire—and, as I believe, justly—have a reverence for the Constitution which has for more than eighty years governed them. I believe that they have been

tenacious of that instrument ; that they have always desired that it should remain substantially intact. I believe that it is their desire to-day ; but if there was any reason which led them, at our late election, to call this convention, it was the thought that in some way the representation in our house of representatives had become so large and so unwieldy, that it seemed to them necessary that, in some way, some change should be made in it. I do not believe, Mr. Chairman, that it was the desire of the people to reduce it to the extent which many gentlemen seem to suppose. I believe—as my friend General Marston said in the early part of this convention—in a large house of representatives. I believe that there is safety in numbers ; that there is safety in the intelligence of the men that come from the country towns—the mechanics that come here—and that they aid a great deal to restrict the gentlemen who have had greater opportunities of education, and who are apt, I believe, occasionally, to take up extraordinary freaks, from which they are held in check by the farmers and mechanics who compose so large a proportion of our house of representatives. Our fathers, in making the basis of representation, placed the first representative at one hundred and fifty polls, and increased in the ratio of three hundred for an additional one. For many years they went on with that basis. Gradually certain evasions of the Constitution have crept in, the effect of which has been to remove that basis. I believe, sir, that if we can remove those evasions, we shall substantially reach the end for which our constituents sent us here ; that for that purpose the reduction should be taken from all towns—not from the large towns, or from the small towns, or from the cities, but should, I believe, be taken equally from all ; and if we are governed by the original articles of the Constitution, we shall do so. I suppose that the amendment proposed substantially does this.

I do not suppose that any scheme that can be devised by man can produce an exact mathematical equality between towns ; it is not in the power of man. It has been objected that this takes the reduction from the larger towns, and does not from any other. My friend, Mr. Marston, cites seven towns in the county of Rockingham which have lost one half of their representation ;



others have lost their single representatives. In answer to that, the city of Concord, one of the largest cities, would lose one third; the city of Manchester will lose more than one third; the city of Nashua, a proportionate part. Look at these facts, and then you will say that the reduction was made, as near as could be done by any process, equally upon all parts of the community. The gentleman talks about there being a radical change in the Constitution. I undertake to say, if you examine it, there is no such radical change; that six hundred inhabitants is very near—as near as anything can be—to the representation of our fathers; and the effect of it will be to eliminate the evasions of the Constitution which have gradually been adopted. And the towns to which he refers in the county of Rockingham as losing one half of their representation, nearly, if not all of them, gained their representation by the evasive character of these ratable polls, which the gentleman says is erroneous. He speaks of the earliest times, when Londonderry was represented by two representatives. The time was when the town of Londonderry had three representatives in the house; the town was then reduced, and then for years the result was that Derry sent two and Londonderry one; and it was not till this new evasion occurred that the town of Londonderry got this new representative. It would have to-day, under a fair interpretation of the Constitution as it stands, but one; and it is so with the other towns, to a great extent. The town of Londonderry only taxed last year three hundred and fifty polls, instead of four hundred and fifty—the number which was necessary to entitle them to the additional representative. An adjacent town in the same county came nearer to it: that had four hundred and twenty-six inhabitants. So it is;—take them all, you will find that the towns have gained by this evasion all they lose by the amendment. But, sir, we have gained something more, as we deem it, to this Constitution. One of the evasions of the Constitution which has grown up has been in the granting of special privileges to the small towns. We propose—this power having, as we deem it, been abused—that the legislature shall have no power to grant such privileges; but if the town cannot be conveniently classed, it should send a proportionate time to which its population entitles it. It seems to me that

that is just, equitable, and fair. It is also true that we have examined the towns classed. In almost all of them the classing causes the abolition of this evasion.

By regarding that, of these classed towns, eight have a number of inhabitants sufficient to entitle them to send the first representative, that evasion will be removed. The result of this view will be, that the towns which are entitled to representation of their own, on this basis will send two hundred and seventy-three representatives, and there will be forty-seven towns which will be so small they will have to be classed. If you allow that these small towns are equal to half a representative on an average, the whole size of the house will be two hundred and ninety-seven—a reduction, from the present size, of ninety-six; and I submit to the committee that that is as large a reduction as can at this time be made. By this proposition, large towns and small ones all suffer; and we think any man, democrat or republican, can present this proposition to the people as as fair and honorable a one as we can, at the present time, devise. It is a return to the number of our fathers. Instead of being an overturn, it is a return to them from the evasions of other times.

Mr. Benton of Lancaster. I would like to have the gentleman inform the convention if this proposition does not give to the cities an advantage over large towns, and if it was not, in the committee, submitted that the large towns should be given the same advantage.

Mr. Bell. It is undoubtedly true that there may be a disadvantage, or there may be an advantage. It will depend upon the growth of the wards; upon the question whether they will have just over 1800 inhabitants, or just under. In the one case it would increase their representation, and in the other, decrease it.

Mr. Gallinger of Concord. Would not that proposition largely reduce the representation of the city of Concord for the present?

Mr. Bell. It would at the present time. It seems to me that there is no system of representation so good and equitable as that upon the people. Ours is a government of and for the people;

and, upon the basis of population, representation is founded upon the fairest and most equitable division possible. I do not say this produces mathematical equality in every instance. I know in some towns it bears harder than in others, but I believe in the towns where it does bear hard they will see the good of the whole.

Mr. Benton of Lancaster. Whether there was not a disagreement among members of the committee as to the reduction that this proposition would effect; whether or not they agreed that, if this basis were fairly carried out, it would be the same as the basis we now have.

Mr. Bell. There was a difference in the committee as to what the effect of this reduction would be; and it is undoubtedly true, as the gentleman says, that this is substantially the same thing as returning to the Constitution as our fathers left it. It is a cutting off of excrescences. The committee was divided—fourteen to four. After talking the matter over, the greater part of the four were satisfied that if the basis of population was fairly carried out, it would be most satisfactory to the mass of the people.

Mr. Sawtell of Lyme. Allusion has been made to seven towns in Rockingham county that would lose one half of their representation. I would inform the committee that I represent one of that class of towns; and I think they would cheerfully agree to that proposition, and that they expected their representative here to vote to reduce the house, even at the expense of one of their own representatives.

Mr. Hastings of Monroe. Upon this question of representation, the discussion has been very prolonged and unsatisfactory. I think it would be well for our constituents if we should pass some cheap and expeditious mode of amending the Constitution in the future, and adjourn, and retire to our homes.

Mr. Cole of Gilford. As a member of that committee, I would say, that the chairman went on to state the effect that this amendment would have on several counties. Perhaps it would be well for the convention to understand that there was no partiality, and of course there could be none under this pro-

vision by representation. And I will give the number of representatives that would be lost under this provision from each county: Belknap would lose five,—it is well known that this is a small county,—Carroll would lose six, Grafton eighteen, Coös four [Mr. Benton of Lancaster, “Six”], Merrimack eleven, Sullivan four, Cheshire ten, Rockingham seventeen, Hillsborough seventeen, Strafford four,—making, in all, ninety-three. The variation this morning, from running of it over, made eighty-nine instead of ninety-three; but I am aware that Belknap county would lose one more, perhaps two more, by a strict construction of this rule.

Mr. Benton of Lancaster. The county of Coös, as my friend Bedell has arranged, would lose six;—that, I do not object to, if it is done fairly. My objection is this: there would be no such reduction as has been ciphered out.

Mr. Sargent of Concord. It seems to me that we have heard this matter discussed until we understand it. I am in favor of the system proposed by the committee. All things considered, I think it to be fair—as fair as any system can be. I believe it will be as likely to meet with the approbation of the people as any system that we can possibly recommend to reduce the house in a substantial manner. The objection of the gentleman from Exeter [Mr. Marston] was, that it reduced the house too much. Now, if we were all of his opinion, we should not want it reduced at all. Well, I do understand that the convention want it reduced, and the people want it reduced, and the question is how to do it. Now the gentleman from Exeter says, that although he was opposed to this principle, yet, if we adopt the principle of population there cannot be any fairer basis adopted in any possible way than the one we have got before us now. We think that is right, and we do not propose to make any objection to it, because the people have decided, as he understands it, and as I understand it, that we will adopt the principle of population as the basis of representation. Now, then, instead of taking up any further time by talk, I hope we shall proceed to a vote as early as may be proper. I am, and I believe the great majority of this convention are, in favor of it, and I hope we shall proceed at once to a vote on the question.

Mr. Ordway of Warner. The proposition before the committee is one that does not meet my approval, and one that, in my judgment, will not meet the approval of the people of this state,—it is so unfair and so unjust. I want to call attention to a certain class of towns in my own county of Merrimack, and to correct a statement or two made by my friend Gallinger from Concord. Dr. Gallinger stated as his opinion—he did not present to us any census, but he states as his opinion—that Ward 1 in Concord would lose one representative. Gentlemen will bear me witness that Ward 1 is a manufacturing ward, steadily increasing, and more likely to have three representatives than it is to be cut down one, if a census is taken. Ward 2 has something like 2,000 population.

Mr. Gallinger. Ward 2 has one representative now, and will remain so.

Mr. Ordway. Ward 7, I think he stated, had 2,000 population, and will be cut down one.

Mr. Gallinger. If I said that, I must be mistaken. Ward 7 loses one representative. It has not 2,000 according to the last census, but about 1,800.

Mr. Ordway. I wanted to call attention to these errors, and state that the reduction in Merrimack county, with the exception of what is taken from Concord, comes from the towns of Andover, Franklin, Loudon, Pittsfield, and Warner; and in those towns there is a loss of one half of their representation, and a disfranchisement of nearly 5,000 of the population of those towns, while Concord, with a population of 12,024, cannot, in my judgment, by any possibility lose more than three. If you will take the wards in Concord, and give them 600 for each ward for the first representative, and then take and divide that up in any reasonable manner, you will find that they will not lose but three, and those will be in the three wards.

Mr. Gallinger. Will you allow me to correct you? Ward 1 has a population of 1439 according to the last census, and will lose one representative; Ward 4 has a population of 2859 and has three representatives, and of course it will lose one: Ward 5 has 2232, and has three representatives, and of course



it will lose one ; Ward 6 has a population of 2726 and three representatives, and will lose one ; Ward 7 has a population of 1439—if I said 2000, I made a prodigious blunder ; I did not mean to do it, because I knew better—and will consequently lose one.

Mr. Ordway. Do I understand from the gentleman that the census is to be taken for the basis in the city of Concord ?

Mr. Gallinger. I understand it so, unless a new census is taken.

Mr. Ordway. Is there not a provision for a new census ?

Mr. Gallinger. No, I think not.

Mr. Ordway. In Merrimack county there is an absolute loss in those few towns of one half of their representation in the house of representatives ; and as one of the representatives from one of those towns, I want the privilege of recording my vote against it—of acting against it ; and I want every gentleman who chooses to take this as a basis, to have the privilege of doing the same thing, and I am content. I have no complaints to make. My deliberate judgment is, that both sides are to be cheated, and that this thing, like Pandora's box, is full of mischief for those who have anything to do with it. It is not a fair proposition, but one that the people will spurn, and spit back with contempt.

Mr. Marston of Exeter. I think this : It is one of the most important things that we get away from this town to-day. I think it is just as manifest as the light of the sun that this proposition before the committee will receive a large majority of the votes of the committee ; and I think, as my friend Wheeler says, that, if you take this basis upon which to fix your representation, it is probably just as fair as any thing you will get, and I hope there is nobody that prefers some other basis who will take any more time to-day. Let us have a vote, settle this business, and go home.

And the question being stated, on division, 242 gentlemen having voted in the affirmative, and 76 in the negative, the affirmative prevailed.

Whereupon, on motion of Mr. Ordway of Warner, sustained by the requisite number of members, the yeas and nays were called.

And the roll being called, the following gentlemen answered in the affirmative :

ROCKINGHAM COUNTY.—Grant, Morrill of Brentwood, Greenough, Sanborn of Candia, Bean, Poor, Tilton, Danforth of Deerfield, Bickford of Deerfield, Folsom, Edgerly of Epping, Bell, Frink, Eastman of Hampstead, Dow, Cram, Hanson, Robinson, Pickering, Wallace of Newton, Batchelder, Clark of Plaistow, Goodwin, Hackett of Ward 1, Portsmouth, Tredick, Hackett of Ward 2, Portsmouth, Morse, Marden, Wendell, Brown of Raymond, Jenness, Webster, Paul, Berry.

STRAFFORD COUNTY.—Laighton, Stevens of Dover, Guppy, Bruce, Wallingford, Horton, Spaulding, Bickford of Dover, Clements, Smith of Durham, Huckins, Woodman of Lee, Meserve, Perkins of Middleton, Fox of Milton, Whitehouse, Wallace of Rochester, Edgerly of Rochester, McDuffy of Rochester, Jenkins, Wentworth of Rollinsford, Morse of Somersworth, M. C. Burleigh, Woodman of Somersworth, Smith of Strafford.

BELKNAP COUNTY.—Hodgdon, George of Barnstead, Key, Cole, Weeks of Gilford, Richardson, Dow, Tuttle, Moses, Shaw of Sanborn-ton, Brown of Tilton.

CARROLL COUNTY.—Pitman, George of Bartlett, Abbott of Conway, Farrington, Wakefield, Granville, Danforth of Freedom, Cobb, Mason of Moultonborough, Carter, Sanborn of Wakefield, Furber, Whitton.

MERRIMACK COUNTY.—Perkins of Allentown, Shirley, Bosworth, Gage, Morse of Bradford, Lyford of Canterbury, Brown of Concord, Tallant, Hollis, Gallinger, John Kimball of Concord, Wentworth of Concord, Benjamin A. Kimball of Concord, Downing, Blodgett, Sanborn of Franklin, Noyes, Parker, Jones, Harvey, Blake, Morse of Loudon, Morse of Newbury, Colby, Smith of Northfield, Knowlton, Robinson, Bean, Buxton, Flanders.

HILLSBOROUGH COUNTY.—Dow, Sleeper, Poor, Pattee, Chamberlain, Felch, Cooledge, Webber, Woods of Hollis, Sargent of Hudson, Chase of Litchfield, Severance, Maxfield, Frederick Smyth, Eastman of Manchester, Briggs, Bartlett, Cheney, Jackson, Devine, Sullivan, Conolly, O'Connor, Moore of Manchester, Holbrook, McQuesten, Hall, Bean, Clapp, Parker of Merrimack, Crosby, Smith of Mont Vernon, Ramsdell, Kimball of Nashua, Saunders of Nashua, Spalding of Nashua, Tilton of Nashua, Dearborn, Parkinson, Otterson, Gilman, Smothers, Hutchinson

of New Boston, Preston, Woodbury, Scott, Smith of Peterborough, Emory of Sharon, Sawyer of Weare, Neville, Jones of Wilton.

CHESHIRE COUNTY.—Vilas, Jackson of Chesterfield, Piper, Parker of Fitzwilliam, Bill, Bemis, Amidon, Jones of Hinsdale, Pierce of Jaffrey, Gustine, Hardy, Hatch, Clarke of Keene, Wellington, Faulkner of Keene, Martin, Jones of Marlow, Fuller, Melville, Converse, Newell, Nims, Stevens of Stoddard, Wilson, Harvey, Lombard, Faulkner of Swanzey, Buffum, Fisher, Pierce of Westmoreland, Albee, Morse of Winchester.

SULLIVAN COUNTY.—Brooks, Hunt of Charlestown, Tolles, Walker of Claremont, Pike of Cornish, Sholes, Alexander, Hodgman of Lempster, Barton, Richards, Moulton, Adams, Sturoc, Perkins of Unity, Carr.

GRAFTON COUNTY.—Gale, Hughes of Ashland, Carbee, Wilder, Batchelder of Bridgewater, White, Adams of Campton, Day, Murray, Blodgett of Dorchester, Huse of Enfield, Applebee, Walker of Grafton, Remick, Hurlbutt, Parker of Hanover, Page of Haverhill, Powers, Ross, Craig, Atwood, Shaw of Lebanon, Cushman, Stearns, Parker of Lisbon, Farr, Sawtell, Moulton of Lyman, Hastings, Pierce of Orford, Gould, Burrows, Weeks, Lyford of Thornton, Putnam, Greeley, Blodgett of Wentworth, Hunt of Woodstock, Stevens of Lisbon, Bingham, Eastman of Littleton.

COÖS COUNTY.—Sawyer of Berlin, Young, Bedel, Taylor, Akers, Howard, Perkins of Jefferson, Burns, Twitchell, Atkinson, Pike of Stark, Drew, Eaton, Brown of Whitefield.

And the following gentlemen answered in the negative :

ROCKINGHAM COUNTY.—Clarke of Atkinson, Griffin, Morrill of East Kingston, Stickney, Morrill of Exeter, Marston, Sanborn of Fremont, Brown of Kensington, Corning, Dickey, Clarke of Northwood, Marcy, Cluff, Sawyer of South Hampton.

STRAFFORD COUNTY.—Wheeler, Eastman of Farmington, Nute, Berry of New Durham, George W. Burleigh.

BELKNAP COUNTY.—Rollins, Woodman of Alton, Sargent of Gilman-ton, Marsh, Dickerman.

CARROLL COUNTY.—Mason of Albany, Coleman, Anderson, Merrow, Quarles, Plummer, Wentworth of Sandwich, Eastman of Jackson.

MERRIMACK COUNTY.—Gault, Langmaid, Thompson of Concord, Badger, Sargent of Concord, Chandler, Critchett, Head, Whittemore, Fowler, Ordway, Walker of Warner.

HILLSBOROUGH COUNTY.—Jameson of Antrim, Kendall, Burt, Gilmore, Slayton, Clark of Manchester, Cilley, Abbott of Milford, Dresser.

CHESHIRE COUNTY.—Farrar.

SULLIVAN COUNTY.—Labaree, Stowell, Rossiter, Hall, Wilson.

GRAFTON COUNTY.—Mann, Beckford of Bristol, Spring, Heath.

COÖS COUNTY.—Aldrich, Harvey, Wight, Benton, Blanchard, Wood of Randolph, Cummings, Gordon.

And 266 gentlemen having answered in the affirmative, and 76 in the negative, the affirmative prevailed, and the report was adopted.

The president announced the committee on time and manner of submitting the several amendments adopted by the convention to a vote of the people, to wit, Messrs. Sargent of Concord, Sinclair of Bethlehem, Marston of Exeter, Putnam of Warren, Faulkner of Keene.

*Ordered*, That the several amendments, adopted by the convention, to the Bill of Rights and the executive department, be referred to the committee on time and manner of submitting proposed amendments to the people.

On motion of Mr. Tilton of Derry, the convention adjourned.

#### AFTERNOON.

The convention met according to adjournment.

Mr. Sargent of Concord moved that the several amendments to the legislative department of the Constitution not already considered in convention be taken from the table and considered.

And the following amendments were severally taken from the table, considered, and adopted :

To Article 3. By striking out the words "every year" in the first line, and inserting the word "biennially."

To Article 5. By striking out the word "annually" in the tenth line, and inserting the word "biennially."

To Article 5. By adding the words, "No town or incorporated place shall have the right, either directly or indirectly, to suffer their credit to be used for the especial benefit of any corporation, nor to raise money for the purpose of loaning or giving the same to any corporation, nor for the taking of stock, nor to issue bonds therefor."

To Article 9. By striking out the word "annually" in the second line, and inserting the word "biennially."

To Article 12. By striking out the word "annually," and inserting the word "biennially."

To Article 12. By striking out the word "March," and inserting the word "November."

To Article 14. By striking out the words "shall be of the Protestant religion."

To Article 16. By striking out the word "annually," and inserting the word "biennially."

To Article 25. By striking out the word "twelve," and inserting the word "twenty-four."

To Article 26. By striking out the word "twelve," and inserting the word "twenty-four."

To Article 29. Strike out, after the words "elected a senator," the words "who is not of the Protestant religion."

Mr. Sargent of Concord, for the committee to whom was referred the several amendments to the Constitution relating to the "judiciary department," having considered the same, reported the following recommendations, to wit:

Amend Article 73 by adding at the end of the article the following words: "but in no case shall such removal be for political reasons."

Also, by striking out the word "president" in said article, and inserting instead thereof the word "governor."

Amend Article 77 by striking out the following words: "so that a trial by jury in the last resort may be had."

Also, by striking out in said article the words "four pounds," and inserting instead thereof the words "one hundred dollars."

Amend Article 83 by adding at the end of said article the following words: "*Provided, nevertheless,* That no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination."

And the report was adopted.

*Ordered,* That the several amendments proposed to the judiciary department of the Constitution be referred to the com-



mittee on the time and manner of submitting amendments to the people.

On motion of Mr. Bartlett of Manchester, the following resolution was adopted :

*Resolved*, That the committee on finance be authorized to approve the accounts of the officers of the convention for their compensation.

On motion of Mr. Thompson of Concord, the resolution introduced by him during the morning session, relating to future amendments of the Constitution, was taken from the table and considered.

Mr. Thompson. I ask the indulgence of the convention for one moment. After having talked with my constituents, and with other gentlemen not my constituents, I think the people ask permission to vote upon some such amendment as this. The amendment I propose has been read to this convention two or three times, and perhaps it is not necessary for me to explain how it will operate, but I will say a word in regard to it. The amendment must be proposed by one legislature—must be adopted by a majority of that legislature; if adopted by a majority, it is sent out to the people, published in the papers, or in any other way that the legislature may order; then, if the next succeeding legislature adopt it by a majority vote—the yea and nay vote to be recorded on the journal—it is to be submitted by them to the people; and if the people accept the amendment, then it becomes an amendment to the Constitution. Now I say, Mr. President and gentlemen, that it is one of the most important amendments that this convention can act upon; and if we go away, and adjourn without submitting some such amendment to the people of this state, in my judgment we shall make a great mistake. I have taken pains to examine the constitutions of all the states in this Union, except the state of Colorado, and I find that in every one but Kentucky, Nevada, and New Hampshire, amendments to their Constitutions may be made in this way. Only those three states—Kentucky, Nevada, and New Hampshire—require a convention to alter their Constitution.

Mr. McDuffee of Rochester. It seems to me the present method of making amendments to the Constitution is sufficient. It seems to me that, if it were very easy to make amendments, there would be great danger of too frequent and ill-considered amendments, to say nothing of the danger of amendments for party purposes. I believe there is nothing so calculated to destroy the respect for the Constitution as frequent amendments. The object we have, above all others, in having a constitution is, to secure permanence and stability of government; and in looking back over the eighty-four years of the existence of our Constitution, I confess if there is anything I admire more about it than another, it is its permanent character. It seems to me there should be some way in which serious defects in the Constitution may be remedied, but I do not believe they should be remedied until they get to be pretty serious defects. With regard to the matter of expense, I know there are many people who believe that the present method is too expensive a method, because it necessitates the calling of a constitutional convention for this very purpose. Well, I believe that during the past eighty-four years that our Constitution has been in operation there has been but one constitutional convention—that of 1850. I believe that did cost the state about \$40,000. If we divide \$40,000 by 84—the number of years that the Constitution has been in operation—we shall then find our Constitution has cost us annually less than \$500;—and is there anybody that begrudges that amount? It seems to me that the subject of making amendments to the Constitution is one of the most important subjects that can be brought to the attention of any people; and I believe that it is of sufficient importance to warrant the assembling of delegates of the people to consider this especial subject, where they will be free from all those obstructions that necessarily attend our hasty legislative sessions. And besides that, I believe that the calling of a constitutional convention for this object is calculated to awaken an interest in the minds of the people, and to lead them to study the Constitution, and to examine for themselves whether there are defects in it; and, if there are any, what are the best means to adopt to amend them. I hope, for one, that the resolution will not be adopted.

Mr. Bingham of Littleton. If I understand the proposition

that is now before the convention, it is something to be substituted for the present mode of revising the Constitution now provided in the Constitution. As it strikes my mind, it is objectionable for very many reasons. In the first place, there is a temptation open to be eternally tampering; and, in the next place, if you want to do anything, you never can do it. And it seems to me it is exceedingly objectionable in both points of view. It is before you; every legislature that meets can act upon it—eternally keeping the people in a “stew” upon the subject. And, in the next place, if you want to do anything, if anything should transpire whereby it should become essential to have some change in the Constitution, you have got to wait six years before you can do it. It seems to me that in every aspect you had better let the Constitution remain as it is, in this respect.

Mr. W. H. Y. Hackett of Portsmouth. There is one other objection to the gentleman’s proposition, and that is, that the legislature are to enlarge, or modify, possibly, their own powers. And the Constitution, in my judgment, ought not to be altered until the people, sending representatives directly from themselves, see occasion to modify it.

Mr. Felch of Hancock moved to so amend the proposition as to provide for a two-thirds vote of each house, instead of a majority, in favor of any proposed amendment.

Whereupon the gentleman from Concord accepted the amendment, and so modified his proposition.

Mr. Tilton of Derry moved to strike out the word “six” before the word years, and to insert the word “ten,” so as to read “that no amendment or amendments shall be submitted to the people oftener than once in ten years.”

And the amendment was rejected.

And upon the question being stated: “Shall the proposition as amended be adopted?” the same was rejected on division.

Mr. Pattee of Goffstown moved to amend the report of the committee on the judiciary department, relating to Article 77, by striking out, after the words “one hundred dollars,” the words “title to real estate is not concerned.”

Mr. Pattee. I do not know why the title to real estate should not be in the same position as to remedies as that of any other property. I would like to know why real estate is not as valuable to us farmers as other taxed property is to others. It seems to me that it is.

Mr. Eastman of Farmington. I happen to be one of those members who have no desperate love for the jurisdiction of justices of the peace. I believe that, generally, they are not competent to try many cases; but, in regard to this matter, I have simply to say, as time is limited here, that, of all cases that come before our courts, cases involving the title to real estate are the most difficult and trying. It requires the highest legal talent to untie some of the knots concerning real estate, and the idea that these justices—or just asses—should try those cases, it seems to me is quite absurd.

Mr. Ramsdell of Nashua. Every inhabitant in the state will insist on a trial by jury where the title to his real estate, which may be his hearthstone or his dooryard, is concerned.

Mr. Pattee. The amendment does not state the right of trial by jury shall not be had, but leaves it to the legislature to establish some tribunal. For my part, I would rather trust my case of \$100 or \$500 before the court the legislature might appoint, than before our supreme judicial court as now constituted.

And the amendment was rejected on division.

Mr. Coolidge of Hillsborough moved that this convention adjourn, without date, at 10 o'clock to-morrow morning, and that the pay-roll of the members and officers be made out for eleven days' attendance for each member.

Mr. Marston of Exeter. If it could now be determined whether the business of this convention can be finished to-morrow, or whether we have got to come back here on Monday, I believe that it would accommodate a great number of the delegates, because, if we are to come back here Monday, there are a great many gentlemen who would like to go away on the train to-night or early in the morning.

Mr. Eastman of Farmington. It seems to me that we can

go on with the business this afternoon, and come in here to-night at seven o'clock, and that we can wind the whole thing up to-night. I hope so, at any rate.

Mr. Gilmore of Manchester. It is a question of what the committees can do, not the convention. I should like to hear from Mr. Sargent of Concord, who is on one of these important committees.

Mr. Sargent of Concord. The committee has been appointed to-day of which I am a member. I understand that the clerk has not been able to furnish a list of it to its members yet, on account of the press of business, and so I do not remember exactly who the other members of the committee are; but the committee are to put these matters into shape, so as to submit them in the best way. How much work there is to be done by the committee is more than I can tell. The committee of the legislative department, which is one of the most important committees, have just retired to consult over their subject-matter, and when they will report is more than we can tell. After those matters are all in and the committees have reported, I suppose this committee which has been appointed to-day will then take the whole matter in hand, and draw up some questions to be submitted to the people. How long it will take these committees to report I cannot tell. I am willing to work late and hard in order that we may close this week; but it strikes me that we had better not undertake to rush these measures through too hastily. It is better to do well what we do undertake, than to use too much haste, and make a mistake. The committee are ready to work, and do all they can.

Mr. Putnam of Warren. I agree perfectly with everything that the gentleman from Concord [Mr. Sargent] has said; but I desire to call the attention of the convention to this fact, that it will be necessary that every member residing in the northern part of this state should leave here by half past ten to-morrow morning in order to reach home to-morrow night, or else go Monday; while, if we can close the convention so that they can leave in the morning, they will not be obliged to stay here over Sunday until Monday. I am in favor of doing it. I do not think that we ought to do anything here in a hurry. I should



rather come back on Monday than to have any mistakes made through haste.

The President. The matter of the Bill of Rights, which was referred to a committee, has been returned very nearly in form—perhaps entirely so—and agreed to in convention; and we are ready for the action of the committee of five, of which Mr. Sargent is chairman. And so with the remainder of the business.

And the question on the motion of Mr. Coolidge being stated, and the same being declared rejected, a division was called for, and 80 gentlemen having voted in the affirmative and 130 in the negative, the negative prevailed, and the amendment was rejected.

Mr. Barton of Newport moved that when the convention adjourns this afternoon, it adjourn to meet on Monday next, at four o'clock in the afternoon.

Mr. Barton. In order to test the sense of the convention, and have an expression of whether we can finish the remainder of the business to-night, or in the morning, and as a good many members desire to leave to-night or early in the morning to reach their homes to-morrow night, I have made this motion.

Mr. Wheeler of Dover. I hope that this motion will not prevail. There is no sort of difficulty in closing this business, I believe, to-night—certainly by to-morrow morning at ten o'clock; and don't let us have the stigma of coming back here next week. There is no need of it.

Mr. Morse of Portsmouth. I hope that the motion will not prevail, because we have already had an expression that we did not wish to adjourn at once. I think that by coming in here to-morrow morning we can finish up the business, and the committees can report by that time. I hope that the convention will give the committees until to-morrow morning at nine o'clock to report, before we consent to adjourn.

Mr. Burns of Lancaster. I would like to inquire whether, in order to move an amendment to the motion of the gentleman from Newport [Mr. Barton], an amendment to adjourn to half past eight to-morrow morning would take precedence. Perhaps

we had better take a recess, and then determine in the interval what it is best to do under the circumstances. It has been suggested that the committees will not have time to report. Now, certainly, I would be in favor of giving them any reasonable time. But I will just state here that one of these general committees, to whom was referred all matters relating to the Bill of Rights, the executive department, etc., met the other evening, and after being together about one hour, put everything in form to submit to the people. My belief is, that there is no difficulty in having everything put in proper form and done correctly, and that we can close the session, either to-night or in the morning, in season for the trains.

Mr. Barton of Newport. The only reason why I made the motion was simply to satisfy those persons around me who wished to know whether they could go home in the morning or not. It is immaterial to me which way the vote is. I only made the motion because I was pressed to get the sense of the convention.

Mr. Ramsdell of Nashua. I hope that the motion of the gentleman from Newport [Mr. Barton] will not prevail. I am not in favor of adjourning until all our work is carefully done. From what I know of the committee that has just retired, they will make no report until they have put their matter in the best possible shape. We are to be paid for to-morrow, and I see no reason why we should not be here. If we should find that all our reports can be properly concluded by to-morrow at two o'clock, and then that nine tenths or nineteen twentieths can reach home to-morrow night, I see no objection to paying the very few gentlemen, who cannot reach home by to-morrow night, for Sunday. Let us sit here like men, and not go home until our work is all and well done.

And the question upon the motion of the gentleman from Newport being stated, the same was rejected.

Mr. Morse of Bradford moved that when this convention adjourns this afternoon, it adjourn to meet this evening at seven o'clock; and that when it adjourns this evening, it adjourn to meet to-morrow morning at eight o'clock.

And the same was rejected.

Mr. Page of Haverhill moved that no new business be entertained by this convention, and that all special and standing committees be requested to report fully before the adjournment of the convention this evening; and that the rules of the convention be so far suspended that such committees have leave to sit during the sessions of this convention on its committee of the whole.

And the same was adopted.

Mr. Page of Haverhill moved that this convention finally adjourn at nine o'clock to-morrow morning.

Mr. Page. I make that motion because three fourths of the members of this convention can reach their homes to-morrow if we adjourn at that hour, and a large amount of expense will be saved the state; and because a large number of these members will be willing to stay here all night, if need be, if they know that our adjournment will occur at that time. I have therefore moved the final adjournment of this convention at nine o'clock to-morrow morning.

Mr. Quarles of Ossipee. I think that we may get through to-night, and I hope no time will be fixed for final adjournment, but that we shall stay here and attend to this business until we get it done, and entirely done, and then adjourn *sine die*. It is my impression that by working to-night we may get through so as to adjourn to-night, so that nearly all the members can get home to-morrow.

Whereupon Mr. Page withdrew his motion.

On motion of Mr. Gallinger of Concord, the convention took a recess for one half hour.

Upon reassembling—

Mr. Benton of Lancaster introduced the following resolution, which was adopted:

*Resolved*, That when this convention adjourns at its present session, it be to meet on the third Wednesday of April next, at ten o'clock in the forenoon.

On motion of Mr. Bartlett of Manchester, the convention took a recess till seven o'clock this evening.

## EVENING.

On motion of Mr. Sawtell of Lyme, the vote whereby the resolution of Mr. Benton of Lancaster, providing that when the convention adjourns, it adjourn to meet on the third Wednesday of April next, was passed, was reconsidered.

And the resolution being before the convention—

Mr. Wheeler of Dover moved to so amend as to provide that the convention should reassemble at the call of the governor.

Whereupon, on motion of Mr. Sanborn of Franklin, the resolution was laid on the table.

On motion of Mr. Brown of Dover, the following resolution was adopted :

*Resolved*, That the secretary of the convention be instructed to make up the pay-roll of the convention to include Saturday the 16th instant.

Mr. Bingham of Littleton, for the committee to whom was referred the proposed amendments to the legislative department of the Constitution, having considered that subject, reported that the amendments adopted by the convention are as follows :

1st. Amend Article 3 by striking out the words “every year,” and inserting instead the word “biennially.”

2d. Amend Article 5 by striking out the word “annually” in the tenth line, and inserting instead thereof the word “biennially.”

3d. Amend Article 5 by adding at the end : “*Provided*, That the general court shall not authorize any town to loan or give its money or credit, directly or indirectly, for the benefit of any corporation having for its object a dividend of profits, or in any way aid the same by taking its stock or bonds.”

4th. Amend by striking out the 9th, 10th, and 11th Articles, and inserting instead the following :

“Art. 9. There shall be in the legislature of the state a representation of the people, biennially elected, and founded upon

the principles of equality; and in order that such representation may be as equal as circumstances will admit, every town or place entitled to town privileges, and wards of cities, having six hundred inhabitants by the last general census of the state, taken by authority of the United States or of this state, may elect one representative; if eighteen hundred such inhabitants, may elect two representatives; and so proceeding in that proportion, making twelve hundred such inhabitants the mean increasing number for every additional representative: *Provided*, That no town shall be divided, or the boundaries of the wards of any city so altered, as to increase the number of representatives to which such town or city may be entitled by the next preceding census; *and provided further*, that to those towns and cities which since the last census have been divided, or had their boundaries or ward lines changed, the general court, in session next before these amendments shall take effect, shall equitably apportion representation in such manner that the number shall not be greater than it would have been had no such division or alteration been made.

“Art. 10. Such towns, places, and wards as have less than six hundred inhabitants, shall be classed by the general court for the purpose of choosing a representative, so that every such class shall contain at least six hundred inhabitants, and be seasonably notified thereof; and in every such class the first meeting shall be held in the town, place, or ward wherein most of the inhabitants reside, and afterwards in that which has the next highest number, and so on, biennially, in rotation through the several towns, places, and wards forming the district.

“Art. 11. Whenever any town, place, or city ward shall have less than six hundred such inhabitants, and be so situated that it cannot conveniently be classed with any other town, place, or ward, the general court may authorize such town, place, or ward to elect and send to the general court such proportionate part of the time as the number of its inhabitants shall bear to six hundred; but the general court shall not authorize any town, place, or ward to elect and send such representative, except as herein provided.”

5th. Amend Article 12 by striking out the word “annually,”



and the word "March," and substituting for the first "biennially," and for the last "November."

6th. Amend Article 14 by striking out the words "shall be of the Protestant religion."

7th. Amend Article 16 by striking out the word "annual," and substituting the word "biennial."

8th. Amend Article 25 by striking out the word "twelve," and substituting therefor "twenty-four."

Also, by striking out the words "one year," and substituting therefor "two years."

9th. Amend Article 26 by striking out the word "twelve," and substituting therefor the word "twenty-four."

10th. Amend Article 27 by striking out the word "annually" and the word "March," and substituting the words "biennially" and "November."

11th. Amend Article 28 by striking out the words "annual," "annually," and "March," and substituting for the first "biennial," for the second "biennially," and for the third "November."

12th. Amend Article 29 by striking out the words "who is not of the Protestant religion."

13th. Amend Article 31 by striking out the words "annually" and "March," and substituting the words "biennially" and "November."

14th. Amend Article 33 by striking out the word "annually," and inserting the word biennially."

15th. Amend Article 37 by striking out the words "seven," "eight," and "five," and substituting for the first "thirteen," for the second "sixteen," and for the third "ten."

And the question being stated: "Shall the report be adopted?"

Mr. Hatch of Keene moved that the report be amended by striking out the 3d Article.

Mr. Hatch. In making this motion I do it for several rea-

sons. First, because it is inexpedient for us to legislate on matters which have not been brought before the public, and for which they do not send us here to act upon. This is rather of private than of public importance, the towns having for years enjoyed the benefit of voting their taxes as they have seen fit. In twenty-two states in the Union, the supreme or highest court has decided that subsidies of this kind are constitutional. We have met here to improve our Constitution, not to render it less favorable for the prosperity of the state than it has been heretofore. In looking at this matter, I am satisfied that the convention will agree with me that the time has passed when the railroads of New Hampshire are to be built by private interests: the towns must assist in building the roads, or they will not be built. In the votes of towns, as they are guarded now by the statute law, towns are prevented from running into any extravagance, and the people's rights and interests are guarded against any corporation that is or can be granted by the legislature. It requires a two-thirds vote of the town to vote any portion of its taxes to a corporation. It would be a shame for us to load down the Constitution with amendments such as this, which has been put in here for private purposes and not for the good of the state;—it would be a shame to go before our constituents, and have the amendments which they have asked for voted down on account of this one. I hope the convention will not adopt this amendment, and, if necessary, I can give other and better reasons, perhaps, than I have done.

Mr. Hardy of Keene. It is perhaps my duty to say one or two words on this subject. It is well known that all over the country the people's money has been taken for the purpose of building up railroads, perhaps more than other corporations. But that matter was carried to so great an extent in Illinois, that the people set to work, and, through a constitutional prohibition, stopped these subsidies to railroads, and stopped themselves from bankruptcy. It is true, as the gentleman says, that the courts in twenty states have decided these subsidies constitutional. That is the very reason why I introduced this amendment into our present Constitution: it is because the supreme court of New Hampshire have wrongly decided that it is constitutional for towns to give money in aid of railroads; and

they have decided, within a day or two, that city councils may vote away, without an expression of the people in the cities, the property of the city in aid of railroads to the extent that the legislature permits them, which is, at present, five per cent. of the whole valuation. Now, I introduced this amendment, which seemed to receive the full acquiescence of this assembly, because we have had some experience in the city of Keene in the last year or two, and a foretaste of some very bitter experience which may come in the city of Keene. Under the statute, there was a vote taken to aid the Manchester & Keene Railroad to the extent of five per cent. of our valuation, which would take \$130,000 of our property—totally to give away—not to take stock, but to give away to that railroad. Now, in the city of Keene more than one half of our tax-payers, more than one half of our legal voters, are mere poll-tax-payers, who have nothing to hazard whatever, and whenever any enterprise of that kind comes up, they are ready to vote because it costs them nothing; and it is for that reason that I introduced this, that towns shall not give away this money. The supreme court, as I said, have decided that this law granting subsidies to railroads is constitutional. Now, if it is constitutional to give money in aid of the making of a railroad, it is constitutional, if the legislature passes a law, to help repair a railroad. The principle is the same, precisely. And you go on a little further, and you find legislative enactments compelling the people of the towns to support the railroads—the poor, impoverished railroads along their lines—just the same as they support their highways; so that the people would not only be called upon to build them, but to support them. That is the reason I want this amendment to pass: I want this to go before the people, that they can fix a constitutional limit to corporations taking away their property. When that amendment was passed upon in committee and convention, it was almost with a unanimous voice; and I believe this convention is ready now to put this provision in the Constitution, and submit it to the people. It is one of the most important things that you have passed upon since we have been here, because it touches the whole property of the state; and if the people choose to leave this so open—to sacrifice their property—then I am satisfied. The gen-

tleman says this is a private measure introduced here. Now, sir, it is not a private measure, except that if we are called upon to pay that subsidy which is voted, it will take out of my pocket \$800, if I live long enough to see it all paid. I do not know what was hinted at by the gentleman from Keene [Mr. Hatch] when he said it was a private thing. A suit in equity was brought on this very matter, and the petitioners represented one tenth part of the taxable property in Keene. That is not a very private matter. And I speak now, not only for myself, but for these petitioners, who represent one tenth part of all the taxable property in Keene. It is a public matter, and I hope that the amendment will prevail.

Mr. Hatch. I am sorry that it is necessary for me to thrust the dirty linen of Keene before this convention, but my friend forces it upon me. In 1869 the town of Keene voted a gratuity of three per cent. for the purpose of building the Manchester & Keene Railroad. That matter laid in abeyance until 1874, when some parties connected with the Cheshire road, who thought it was injuring the prospects and the receipts of the Cheshire Railroad, procured a petition, which was circulated by the honorable gentleman who has just sat down [Mr. Hardy], upon which thirty-one of the legal voters of Keene signed their names. It was a petition to the supreme court for an injunction against the city of Keene paying any money to the Manchester and Keene Railroad. In the meantime, the authorities of the road, fearing that the vote of the town might not be taken by the city authorities, a petition signed to the number of one hundred and sixty was circulated, containing many of the names of the best buisness men in Keene—the largest property-holders—asking the mayor to appoint a day for the town-meeting. This was done. Evening meetings were held, and the matter discussed by the best talent in the town.

At a meeting of the legal voters, more than three to one voted in favor of the gratuity of three per cent. The matter was brought before the city councils, and they voted unanimously three per cent. In the mean time, the contract having been made before this petition was drawn up, the contractors fearing that the courts would decide against them,

asked permission to wait before commencing their contract on the road until the decision was rendered. Permission was granted. They took other contracts in the western part of the country, and in the spring, when they were called upon to work, proposed rather to pay damages than to leave other contracts and come to New Hampshire. A contract was made with other parties; a pool was formed by parties, one of whom lived in Indiana and the other in Chicago. Those men were men of capital, who agreed to come in for the other contractors to help build the road until it was half finished; then the contractors were to have a certain amount of the bonds of the road to carry on the work. In the mean time, letters were written from Keene to the gentlemen of capital at the West, assuring them that the road was rotten from the core; that no man of any financial strength was interested in it; that the road never could be built; and many other things of a like nature. This I have from one of the contractors himself. I state it here, that it was written by some man in the interest of the Cheshire road; whether signed by his own name, or anonymously, it does not make any difference. This matter has been opposed by the Cheshire road from the beginning to the end. The contractors came on in July, and over 1000 men were placed on the road at work.

Mr. Morse of Portsmouth. I hardly think that the remarks of the gentleman are germane to this question. I think we cannot go into any transaction of his in regard to his city.

The president decided that Mr. Hatch might proceed.

Mr. Hatch. Over 1000 laborers were placed on the line of the Manchester and Keene road, and it was intended that the road should be open to Greenfield, N. H., in the month of March next. The city of Keene voted three per cent.; the towns of Marlborough, Harrisville, Hancock, and Bennington voted the amounts which they thought they could afford, and work was commenced in the various towns, and carried on with despatch. The first payment was made on the line. When the second payment became due—these letters having been written to Chicago—the contractors found it impossible to obtain the funds which they expected; consequently the sub-contract-



ors were unable to pay their men, and 1000 laborers were thrown out of employment. Not only the merchants and farmers, but the boarding-house keepers, and all those who furnished anything for the benefit of the laborers on the road, were deprived of their pay. At one time there were between three hundred and four hundred men in the streets of Keene demanding food or pay from the contractors, who could not furnish it because of the prejudice that had been made in this manner by the efforts of the Cheshire Railroad. Now, I ask of the convention to be very careful not to pass anything this evening that they will be sorry for hereafter. There is one other point that I wish to make, and that is one that I have seen proposed in the legislature, and again, where lawyers are defeated in the courts in their cases, and come before the legislature bringing an act for their benefit. This belongs to the same class of acts. The lawyers, the counsel of the Cheshire road, and all the authorities of the Cheshire road—I cannot say that it is the Cheshire road that does this—but among those petitioners there was a conductor, the master-mechanic, superintendent, and some ten or twelve out of the thirty employés of the Cheshire road; some half of the rest were stockholders; the balance—excepting two—were men who were connected by blood, marriage, or business ties, with the principal men who had signed this petition.

And upon the question being stated, the amendment was rejected.

Whereupon the report of the committee was adopted.

*Ordered*, That the several amendments relating to the legislative department of the Constitution be referred to the committee on time and manner of submitting the amendments to the people.

Mr. Kimball of Ward 5, Concord, for the committee on finance, reported that they had examined and allowed the following named bills:

Charles C. Danforth, clerk,	. . .	\$15 00
A. W. Baker, assistant clerk, (extra)	. . .	50 00
L. S. Coan, chaplain,	. . .	56 10

A. W. Quint, sergeant-at-arms, . . .	42 10
C. F. Rowell, door-keeper, . . .	60 50
C. E. Cummings, " . . .	38 70
W. H. Presby, " . . .	63 70
A. F. Shepard, page, . . .	22 20
C. F. Duffy, page, . . .	29 20
John K. Stokes, janitor, . . .	84 00
John H. Thompson, assistant janitor, . . .	24 00
Morrill & Silsby, stationery, . . .	108 00
Edward A. Jenks, printing, etc., . . .	339 42
E. C. Bailey, papers, . . .	93 75
C. C. Pearson & Co., hand-books, . . .	187 50
R. C. Danforth, use of stoves, . . .	126 05
Ranlet & Prescott, coal, . . .	25 50

And the same was approved by the convention.

On motion of Mr. Sargent of Concord, the following resolution was adopted :

*Resolved*, That in all cases where the words "Protestant religion" occur in the Constitution as a qualification for office, the same be stricken out.

(Mr. Bingham of Littleton in the chair.)

Mr. Frink of Greenland introduced the following resolution :

*Resolved*, That the thanks of this convention be presented to the Hon. Daniel Clark, president, for the able and impartial manner with which he has discharged the duties of presiding officer.

Whereupon the president resumed the chair, and addressed the convention as follows :

*Gentlemen of the Convention*: You have put me under the necessity of frequent acknowledgments of your kindness. Next to the approval of one's own conscience, is the approval of his associates and friends. Especially gratifying to me is it that my labors here have been approved by gentlemen so eminent as are many of the members of this convention. I have experienced, gentlemen, through the convention, your kind consideration, and can bear witness to the candor, intelligence, and

ability with which you have performed your work. I suggested to you in the outset that it was one of delicacy, and you have met the emergency to the full of my expectations. I know you must have met it to the approval of your own consciences. They tell us, gentlemen, that this Constitution of ours is old-fashioned; but if the casket be old-fashioned and somewhat defaced, it still contains the precious jewels of liberty and free government. I trust that when you return to your constituents, gentlemen, whatever may be the fate of the amendments which you have adopted, they may say, "Well done, good and faithful servants." You have done your labors with discretion and with care. Wishing you, gentlemen, a safe return to your homes when you shall adjourn, and trusting you will find your homes uninvaded by disease or sorrow, and that there will be extended to you—as I know there will—an affectionate greeting, I submit to you and to our constituents the work of this convention.

Mr. Frink. There can be but one voice in this convention in regard to the manner in which our president has presided over our deliberations. That we have been able to complete the business of this convention within the brief period covered by our session is due very largely to his experience and perfect knowledge of parliamentary law. I know, too, that all will bear me witness, that his urbanity and strict impartiality have rendered the discharge of the somewhat delicate duties imposed upon us an agreeable task. I have, therefore, Mr. Chairman, in behalf of this convention, introduced the resolution which has just now been read, and trust it may be unanimously adopted.

Mr. Sargent of Concord. I rise to second the motion, that that resolution prevail. We have been together but a short time, but we have succeeded in accomplishing a large amount of business. We have in all our deliberations succeeded. We have been harmonious, and there has been a good state of feeling existing during the whole session between the members; and this to a great extent has been produced by the manner in which the master has held the reins, and the manner in which he has guided the course of the body. It is usual to pass a vote of thanks, as a mere matter of form in most cases; but in this case I hope it will

be *no* matter of form, but, in the hearts and minds of the members of this convention, a matter of substance which we all approve. Certainly, we can all bear witness to the truth of this assertion, that our presiding officer has on all these occasions performed his duties with great ability, great impartiality, and has enabled the convention to proceed with great dispatch in discharging its business; and very much of our success, as I have said, is due to the manner in which his duties have been discharged. I hope that this resolution will pass unanimously, and that all will feel it is an act of justice which every one wishes to render; that it is the truth, and we all feel that it is not a matter of form, but a matter of substance.

And the question being stated, the resolution was unanimously adopted.

Mr. Morse of Portsmouth moved that the convention adjourn to eight o'clock to-morrow morning.

And the same was rejected.

On motion of Mr. Benton of Lancaster, the resolution providing for an adjournment of the convention to the third Wednesday of April next was taken from the table, and considered.

And on motion of the same gentleman, the same was referred to the committee on time and manner of submitting the proposed amendments to the people.

Mr. Slayton of Manchester introduced the following resolution, which, on motion of the same gentleman, was referred to the committee on time and manner of submitting the proposed amendments to the people:

*Resolved*, That when this convention adjourns, it will adjourn subject to the call of the president of this convention, if he, in his judgment, deems it best for the state.

Mr. Benton of Lancaster moved to adjourn to to-morrow morning, at eight o'clock.

And the same was rejected.

Mr. Gallinger of Concord introduced the following resolution, which was adopted:

*Resolved*, That the thanks of the convention be hereby tendered to the secretary, assistant secretary, chaplain, sergeant-at-arms, official reporter, door-keepers, and pages, for the faithful discharge of their several duties.

On motion of Mr. Ramsdell of Nashua, the convention adjourned to eight o'clock to-morrow morning.

---

SATURDAY, Dec. 16, 1876.

The convention met according to adjournment.

(The president in the chair.)

Prayer was offered by the chaplain.

The journal was read and approved.

Mr. Sargent of Concord, for the committee appointed to report to the convention the time when and the manner in which the several amendments of the Constitution proposed by this convention should be submitted to the legal voters of this state for their action, respectfully reports that they have attended to the duty assigned them, and that he was instructed to report the accompanying resolutions, in the form following :

### STATE OF NEW HAMPSHIRE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND SEVENTY-SIX.

In the Convention of Delegates assembled at Concord on the first Wednesday of December, in the year of our Lord one thousand eight hundred and seventy-six, for the purpose of revising the Constitution of this state, in pursuance of an act of the legislature passed July eighteenth, in the year of our Lord one thousand eight hundred and seventy-six,—

I. *Resolved*, That the alterations and amendments proposed to the Constitution shall be submitted to the qualified voters of the state, at the annual town-meetings holden on the second Tuesday of March, in the year of our Lord one thousand eight hundred and seventy-seven, to be by them acted upon at said meetings, or any adjournment thereof within the same week.



II. *Resolved*, That the selectmen of the several towns, wards, and places in the state be directed to insert in their warrants, calling the said annual town-meetings, an article to the following effect: "To take the sense of the qualified voters whether the alterations and amendments of the Constitution proposed by the constitutional convention shall be approved."

III. *Resolved*, That the sense of the qualified voters shall be taken by ballot upon each of the following questions submitted to them by this convention:

1. Do you approve of striking out the word "Protestant" in the Bill of Rights, as proposed in the amended Constitution?
2. Do you approve of so amending the Constitution that the general court shall be authorized to provide for the trial of causes in which the value in controversy does not exceed one hundred dollars, and title to real estate is not concerned, without the intervention of a jury, as proposed by the amended Constitution?
3. Do you approve of the biennial election of governor, councillors, members of the senate and house of representatives, and biennial sessions of the legislature, as proposed in the amended Constitution?
4. Do you approve of a house of representatives based upon population, and constituted and chosen as provided in the amended Constitution?
5. Do you approve of a senate of twenty-four members, to be constituted and chosen as provided in the amended Constitution?
6. Do you approve of the election, by the people, of registers of probate, solicitors, and sheriffs, as provided in the amended Constitution?
7. Do you approve of abolishing the religious test as a qualification for office, as proposed in the amended Constitution?
8. Do you approve of prohibiting the general court from authorizing towns or cities to loan or give their money or credit to corporations, as proposed in the amended Constitution?
9. Do you approve of changing the time for holding the

state election from March to November, as proposed in the amended Constitution?

10. Do you approve of authorizing the general court to provide that appeals from a justice of the peace may be tried by some other court without the intervention of a jury, as proposed in the amended Constitution?

11. Do you approve of authorizing the general court to increase the jurisdiction of justices of the peace to one hundred dollars, as proposed in the amended Constitution?

12. Do you approve of the proposed amendment prohibiting the removal from office for political reasons?

13. Do you approve the proposed amendment prohibiting money raised by taxation from being applied to the support of the schools or institutions of any religious sect or denomination, as proposed in the amended Constitution?

IV. *Resolved*, That the votes on the said questions shall be recorded, copied, sealed up, labelled, directed, and returned by the town-clerks to the secretary of state, on or before the first Tuesday of April, 1877, under the same penalty as is by law prescribed for neglect to return the votes for governor, and said votes shall be by the secretary of state seasonably laid before the governor and council.

V. *Resolved*, That the secretary of state is hereby directed to furnish blanks to the town-clerks of the different towns, wards, and places, for the returns of the votes on said questions, in the following form :

“STATE OF NEW HAMPSHIRE.

“TOWN OF \_\_\_\_\_. COUNTY OF \_\_\_\_\_. At a legal meeting of the qualified voters of the town of \_\_\_\_\_, holden on the second Tuesday of March, A. D. 1877, the votes on the several questions involving the alterations and amendments of the Constitution, submitted to the qualified voters, were as follows :

“Question 1st,—Yeas, \_\_\_\_\_. Nays, \_\_\_\_\_.

“Question 2d,—Yeas, \_\_\_\_\_. Nays, \_\_\_\_\_. &c., &c., to and including Question 13.

“Attest :

\_\_\_\_\_ *Town Clerk.*”

VI. *Resolved*, That the secretary of this convention be directed to procure to be printed one hundred thousand copies of the Constitution as altered and amended by this convention, and the same number of copies of the questions to be proposed to the qualified voters, and the same number of these resolutions, and to cause the same to be distributed, as soon as may be, to the town-clerks of the respective towns, wards, and places in the state, for the use of the qualified voters, in numbers proportioned as near as may be to the number of the legal voters in the said respective towns, wards, and places: and it is made the duty of said clerks seasonably to distribute the same among said voters.

VII. *Resolved*, That the secretary of state be also required to furnish an equal number of printed ballots containing said questions to be thus voted upon, and that they be distributed as provided in the preceding resolution, a reasonable time previous to the March election.

VIII. *Resolved*, That the governor and council, prior to the third Tuesday of April, A. D. 1877, shall open and count said votes, and make a record thereof; and the governor shall forthwith issue his proclamation announcing the result of the vote on each of said questions submitted to the people.

IX. *Resolved*, That such of the proposed amendments as shall receive the requisite number of votes shall take effect and be in force at such time or times as the general court, at its June session for the year 1877, shall fix upon and determine; but if said legislature shall not so fix upon the time or times at which said amendments shall take effect, then at such time or times as shall be fixed and determined by this convention at an adjourned session thereof.

Mr. Page of Haverhill moved to amend the report by inserting the words "judges and" before the word "registers," in the sixth question.

Mr. Sargent of Concord. It seems to me, that, where all the property in every county in this state has to pass through the hands of these judges of probate in the course of a few years,—where all the widows and orphans in the state are placed in the

hands and under the control of these judges of probate for the time being,—it is all-important that we should have men who are selected for their integrity and their ability, and that it should not be left to party caucuses to select such men for judges of probate as they think will carry the most votes without regard to their qualifications.

Mr. Langmaid of Chichester. These men who have been put in office for political reasons cannot be removed, and that is what we find fault with.

Mr. Hodgdon of Barnstead. The very reason given by the gentleman from Concord [Mr. Sargent], about our property going through the hands of these officers, is why we want to have something to say about it ourselves; we want to have something to say about selecting them, in order to obtain better men for that important position.

Mr. Quarles of Ossipee. The judges of probate are required to decide as grave questions of law, wherein as much ability and study are required to decide them, as come before the supreme court. Men on the probate bench should understand law, and should be men who can decide questions correctly, and not send parties up to the supreme court, at great cost and expense, to have their decisions reversed and sent back. I hope we can trust to the executive to appoint them, and have their offices permanent. It takes a long time for a man to get posted in the law of probate courts, and it seems to me, for the interests of the people, the judges should be appointed, and not elected.

And upon the question being stated, the amendment was declared rejected.

Whereupon Mr. Langmaid of Chichester called for the yeas and nays; and, the call being sustained by the requisite number of members, the yeas and nays were ordered.

And upon the roll being called, the following gentlemen answered in the affirmative:

ROCKINGHAM COUNTY.—Sanborn of Candia, Griffin, Danforth of Deerfield, Folsom, Edgerly of Epping, Hanson, Pickering, Batchelder, Brown of Raymond, Hoyt, Sawyer of South Hampton.

STRAFFORD COUNTY.—Woodman of Lee, Perkins of Middleton, Berry of New Durham, Woodman of Somersworth, Foss, Smith of Strafford.

BELKNAP COUNTY.—Hodgdon, Perkins of Center Harbor, Key, Dow, Brown of Tilton.

CARROLL COUNTY.—Pitman, George of Bartlett, Farrington, Granville, Cobb, Plummer, Wentworth of Sandwich, Furber.

MERRIMACK COUNTY.—Perkins of Allenstown, Gage, Gault, Lyford of Canterbury, Langmaid, Tallant, Wentworth of Concord, Parker, Jones, Blake, Morse of Loudon, Morse of Newbury, Knowlton, Robinson, Buxton, Flanders.

HILLSBOROUGH COUNTY.—Burt, Dow, Sleeper, Starrett, Felch, Cooledge, Webber, Sargent of Hudson, Chase of Litchfield, Severance, Jackson, Devine, Sullivan, O'Connor, Duffy of Nashua, Hutchinson of New Boston, Woodbury.

CHESHIRE COUNTY.—Vilas, Jackson of Chesterfield, Gustine, Clarke of Keene, Newell, Stevens of Stoddard, Fisher, Pierce of Westmoreland, Albee, Morse of Winchester.

SULLIVAN COUNTY.—Sholes, Alexander, Hodgman of Lempster, Adams of Springfield, Perkins of Unity, Carr.

GRAFTON COUNTY.—Gale, Carbee, Mann, Wilder, Applebee, Remick, Page of Haverhill, Ross, Craig, Atwood, Stevens of Lisbon, Eastman of Littleton, Sawtell, Moulton of Lyman, Burrows, Weeks, Lyford of Thornton, Putnam, Greeley, Blodgett of Wentworth, Hunt of Woodstock.

COÖS COUNTY.—Bedel, Taylor, Akers, Burns, Atkinson, Blanchard, Drew, Eaton, Brown of Whitefield.

And the following gentlemen answered in the negative :

ROCKINGHAM COUNTY.—Clarke of Atkinson, Grant, Greenough, Poor, Tilton, Bickford of Deerfield, Stickney, Morrill of Exeter, Marston, Eastman of Hampstead, Dow, Cram, Brown of Kensington, Corning, Dickey, Wallace of Newton, Moulton, Clarke of Northwood, Clark of Plaistow, Jenness, Webster, Cluff, Berry.

STRAFFORD COUNTY.—Guppy, Bruce, Wheeler, Clements, Smith of Durham, Eastman of Farmington, Nute, Meserve, Fox of Milton, McDuffy of Rochester, Jenkins, M. C. Burleigh.

BELKNAP COUNTY.—George of Barnstead, Weeks of Gilford, Sargent of Gilmanton, Marsh, Moses, Dickerman.

CARROLL COUNTY.—Coleman, Merrow, Carter, Quarles, Hubbard, Whitton.



MERRIMACK COUNTY.—Brown of Concord, Fox of Concord, Thompson of Concord, Gallinger, Badger, Sargent of Concord, John Kimball of Concord, Chandler, Benjamin A. Kimball of Concord, Downing, Critchett, Hammond, Sanborn of Franklin, Harvey, Colby, Fowler, Bean, Ordway, Walker of Warner.

HILLSBOROUGH COUNTY.—Davis, Kendall, Pattee, Woods of Hollis, Gilmore, Maxfield, Frederick Smyth, Eastman of Manchester, Clark of Manchester, Briggs, Slayton, Cheney, Moore of Manchester, Holbrook, McQuesten, Hall, Bean, Parker of Merrimack, Abbott of Milford, Crosby, Ramsdell, Spalding of Nashua, Tilton of Nashua, Smothers, Preston, Scott, Smith of Peterborough, Wood of Weare, Sawyer of Weare, Neville, Jones of Wilton, Dresser.

CHESHIRE COUNTY.—Parker of Fitzwilliam, Jones of Hinsdale, Hardy, Hatch, Wellington, Faulkner of Keene, Martin, Converse, Nims, Harvey.

SULLIVAN COUNTY.—Brooks, Labaree, Hunt of Charlestown, Tolles, Stowell, Winn, Rossiter, Pike of Cornish, Hall, Wilson, Cooper, Sturoc.

GRAFTON COUNTY.—Hughes of Ashland, Batchelder of Bridgewater, Beckford of Bristol, Adams of Campton, Huse of Enfield, Hurlbutt, Parker of Hanover, Spring, Cushman, Stearns, Parker of Lisbon, Farr, Hastings, Pierce of Orford.

COÖS COUNTY.—Harvey, Benton, Gordon.

And 110 gentlemen having answered in the affirmative and 139 in the negative, the negative prevailed, and the amendment was rejected.

The question recurring upon the report, it was adopted.

Mr. Sargent of Concord, for the committee to whom was referred the resolutions relating to the adjournment of the convention, having considered the same, reported the following resolution, and recommended its adoption :

*Resolved*, That when this convention adjourn, it be to meet again at the call of the president of this convention, such call to be issued, and such adjourned meeting to be held, some time in the year 1877.

Mr. Gallinger of Concord moved to amend the resolution by inserting after the words "president of this convention," the words "or, in case of his death, by the governor of the state."

Which amendment was accepted, and the resolution as amended was adopted.

On motion of Mr. Gallinger of Concord, the following resolution was adopted :

*Resolved*, That the sum of five hundred and fifty dollars be allowed to George J. Manson, in full, for his services as official stenographer to this convention.

On motion of Mr. O'Connor of Manchester, the convention adjourned, to meet at the call of the president, or, in case of his death, of the governor of the state.

Whereupon the president declared the convention adjourned, subject to call under the preceding resolution.

T. J. SMITH, *Secretary*.

A true copy :—

Attest :

T. J. SMITH, *Secretary*.









UNIVERSITY OF CALIFORNIA AT LOS ANGELES  
THE UNIVERSITY LIBRARY

This book is DUE on the last date stamped below

JUN 4 1956

REC'D LD-URL

JAN 30 1978

LD  
URL JAN 30 1980

UCSB

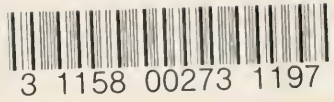
DISCHARGE-URL

MAR 19 1981

UNIVERSITY OF CALIFORNIA

THE UNIVERSITY LIBRARY

23



JK  
2925  
1876  
A23



AA 000 813 793 7

WITHEBANK  
L. A. CO. L. L.  
LOS ANGELES